



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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### City Council

Bob Wasserman, Mayor

Suzanne Lee Chan, Vice Mayor

Anu Natarajan

Bill Harrison

Dominic Dutra

### City Staff

Fred Diaz, City Manager

Harvey E. Levine, City Attorney

Mark Danaj, Assistant City Manager

Dawn G. Abrahamson, City Clerk

Harriet Commons, Finance Director

Marilyn Crane, Information Technology Svcs. Dir.

Annabell Holland, Community Services Director

Norm Hughes, City Engineer

Bruce Martin, Fire Chief

Jim Pierson, Public Works Director

Jeff Schwob, Interim Community Dev. Director

Suzanne Shenfil, Human Services Director

Craig Steckler, Chief of Police

Brian Stott, Human Resources Director

Lori Taylor, Economic Development Director

Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## **Addressing the Council**

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## **Oral Communications**

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

**The City Council Agendas may be accessed by computer at the following Worldwide Web Address: [www.fremont.gov](http://www.fremont.gov)**

## **Information**

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

## **Availability of Public Records**

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
City of Fremont  
3300 Capitol Avenue, Bldg. A  
Fremont, California 94538  
Telephone: (510) 284-4060

*Your interest in the conduct of your City's business is appreciated.*

**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**JUNE 28, 2011**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances  
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes – for the Regular Meetings of October 19, 2010 and November 2, 2010, for the Special and Regular Meetings of November 16, 2010, for the Regular Meetings of November 23, 2010 and December 7, 2010, for the Special and Regular Meetings of December 14, 2010, for the Special Meeting of December 16, 2010, for the Regular Meeting of February 8, 2011, for the Special and Regular Meetings of February 22, 2011, for the Regular Meeting of March 8, 2011, for the Special and Regular Meetings of June 14, 2011, and the Special and Regular Meetings of June 21, 2011*
- 2.3 *Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located along Niles Boulevard Designated as APN 507-0828-005-00 & APN 507-0828-006-00 from Community Commercial District, Historic Overlay District (C-C)(HOD) to Planned District Historic Overlay District (P-2011-232)(HOD)*

*RECOMMENDATION: Adopt ordinance.*

- 2.4 *Second Reading and Adoption of an Ordinance of the City of Fremont Amending the Precise Plan for P-District 2009-9 from Property Located at 3651 Walnut Avenue*

*RECOMMENDATION: Adopt ordinance.*

- 2.5 *FINAL MAP FOR TRACT 8001 AND IMPROVEMENT AGREEMENTS – 42100 BLACOW ROAD, LUNARE DEVELOPMENT, LLC*

*Approval of Final Map for Tract 8001, Improvement Agreements for Public Streets (Blacow Road and Fremont Boulevard) and Construction of Private Streets (Borgo Common, Cerchio Terrace, Strada Common, Vicolo Terrace), and Dedication of Land and Public Easements for Tract 8001*

*Contact Person:*

<i>Name:</i>	<i>Jayson Imai</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Engineering/Public Works</i>	<i>Engineering/Public Works</i>
<i>Phone:</i>	<i>510-494-4732</i>	<i>510-494-4748</i>
<i>E-Mail:</i>	<i>jimai@fremont.gov</i>	<i>nhughes@fremont.gov</i>

*RECOMMENDATION: Adopt a resolution:*

- 1. Approving the Final Map for Tract 8001.*
- 2. Approving the Agreement for Public Improvements entitled, “Public Improvement Agreement, Tract 8001”, with the developer, Lunare Development LLC., a California limited liability company, and authorizing the City Manager or his designee to execute the agreement on behalf of the City.*
- 3. Approving the Agreement for Private Improvements entitled, “Private Improvement Agreement, Tract 8001”, with the developer, Lunare Development LLC., a California limited liability company, and authorizing the City Manager or his designee to execute the agreement on behalf of the City.*
- 4. Accepting the developer’s offer of dedication of easements, as identified on the Final Map, provided that the acceptance of the offer of dedication of easements for public roadway purposes shall be conditioned upon the developer’s completion of improvements to the satisfaction of the City Engineer.*

- 2.6 *PHASE I – BEACON AVENUE, CALIFORNIA STREET AND WALNUT AVENUE PROJECT CONTRACT AWARD*

*Approval of Plans and Specifications, Appropriation of Funding and Award of Contract to the Lowest Responsible Bidder for the Phase I – Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC)*

*Contact Person:*

<i>Name:</i>	<i>Craig Covert</i>	<i>Norm Hughes</i>
<i>Title:</i>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<i>Dept.:</i>	<i>Public Works</i>	<i>Public Works</i>
<i>Phone:</i>	<i>510-494-4785</i>	<i>510-474-4748</i>
<i>E-Mail:</i>	<i>ccover@fremont.gov</i>	<i>nhughes@fremont.gov</i>

**RECOMMENDATIONS:**

1. Approve the plans and specifications for Phase I - Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC).
2. Accept the bid and award the construction contract for Phase I – Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC) to the lowest responsible bidder, Stoloski and Gonzalez, Inc., in the amount of \$651,645.50 and authorize the City Manager to execute the contract.
3. Appropriate the STP/CMAQ funding approved by MTC in the amount of \$593,316.40 to 522PWC8749 - Phase I - Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC).
4. Appropriate \$175,000 (from Urban Housing Group) to 502PWC8749 as the 20% local match.

**2.7 2011 SLURRY SEAL, 8240-C (PWC) CONTRACT AWARD**

*Approval of Plans and Specifications and Award of Contract to Lowest Responsible Bidder for 2011 Slurry Seal, 8240-C (PWC)*

**Contact Person:**

Name:	Craig Covert	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Public Works	Public Works
Phone:	510-494-4785	510-474-4748
E-Mail:	ccover@fremont.gov	nhughes@fremont.gov

**RECOMMENDATIONS:**

1. Approve the plans and specifications for Slurry Seal 2011, 8240-C (PWC).
2. Accept the base bid amount and Bid Alternate Nos. 1 and 2 and award the construction contract for the 2011 Slurry Seal Project, 8240-C (PWC) to the lowest responsive and responsible bidder, Bond Blacktop, Inc., in the amount of \$795,556.00 and authorize the City Manager or his designee to execute the contract.

**2.8 AWARD OF FUEL CONTRACT**

*Authorization for the City Manager or Designee to Execute a Contract for the Purchase and Delivery of Gasoline and Diesel Fuel to City Fuel Sites*

**Contact Person:**

Name:	Mark P. Collins	Frank Morgan
Title:	Fleet Maintenance Manager	Dep. Director of Maintenance Operations
Dept.:	Public Works	Public Works
Phone:	510-979-5739	510-979-5701
E-Mail:	mcollins@fremont.gov	fmorgan@fremont.gov

**RECOMMENDATION:** Authorize the City Manager or designee to execute a contract with Falcon Fuels, Inc., to be the City's primary vendor for the purchase and delivery of a minimum of 200,000 gallons of fuel for a one-year term and to renew the contract for up to two one-year terms, in accordance with Bid. No. 12-004.

## 2.9 *FY 2011/12 PARATRANSIT WORKPLAN*

*Adopt a Resolution Authorizing Submittal of a Workplan for the FY 2011/12 Measure B Paratransit Program to the Alameda County Transportation Commission (Alameda CTC)*

*Contact Person:*

<i>Name:</i>	<i>Shawn Fong</i>	<i>Suzanne Shenfil</i>
<i>Title:</i>	<i>Paratransit Program Manager</i>	<i>Director</i>
<i>Dept.:</i>	<i>Human Services</i>	<i>Human Services</i>
<i>Phone:</i>	<i>510-574-2033</i>	<i>510-574-2051</i>
<i>E-Mail:</i>	<i>sfong@fremont.gov</i>	<i>sshenfil@fremont.gov</i>

*RECOMMENDATION: Adopt a resolution:*

- 1. Authorizing submittal of the City's application to the Alameda CTC for paratransit funding under Measure B.*
- 2. Authorizing the City Manager or his designee to notify the Alameda CTC that the City is allocating all Measure B paratransit revenues to the City's non-mandated paratransit program.*

## 2.10 *MICROSOFT OFFICE 2010 AND WINDOWS 7 SOFTWARE LICENSES*

*Authorize the City Manager or Designee to Enter into a Contract with CompuCom Systems, Inc., for Microsoft Office 2010 and Windows 7 Software Licenses and to Execute Any Implementing Documents and Take Any Implementing Actions as Necessary*

*Contact Person:*

<i>Name:</i>	<i>Marilyn J. Crane</i>
<i>Title:</i>	<i>Director</i>
<i>Dept.:</i>	<i>Information Technology Services</i>
<i>Phone:</i>	<i>510-494-4802</i>
<i>E-Mail:</i>	<i>mcrane@fremont.gov</i>

*RECOMMENDATION: Authorize the City Manager or designee to enter into a contract with CompuCom Systems, Inc., for the licensing of Microsoft software in an amount not-to-exceed \$428,197.44 for a three-year period, with an annual allocation of \$142,732.48; to add 81 Windows 7 licenses to the existing contract with CompuCom at a cost of \$11,540.07; and to authorize the expenditure of an additional amount not-to-exceed \$25,000 per year to maintain software licensing compliance; subject to adoption of the applicable budget in subsequent fiscal years; and to execute any implementing documents and take any implementing actions as necessary.*

## 2.11 *CONSIDERATION OF CITY COUNCIL MEETING SCHEDULE*

*Introduction of an Ordinance to Reduce the Number of Regular City Council Meetings from Four Meetings Per Month To Three Meetings Per Month*

*Contact Person:*

<i>Name:</i>	<i>Dawn G. Abrahamson</i>	<i>Mark Danaj</i>
<i>Title:</i>	<i>City Clerk</i>	<i>Assistant City Manager</i>
<i>Dept.:</i>	<i>City Clerk</i>	<i>City Manager</i>
<i>Phone:</i>	<i>510-284-4060</i>	<i>510-284-4000</i>
<i>E-Mail:</i>	<i>dabrahamson@fremont.gov</i>	<i>mdanaj@fremont.gov</i>

*RECOMMENDATION: Introduce an ordinance amending Fremont Municipal Code, Sections 2-1100 and 2-1101.1 to adopt a new permanent schedule for scheduling regular meetings of the City Council to be held on the first, second and third Tuesdays of each month.*

**3. CEREMONIAL ITEMS**

3.1 Resolution: Honoring Police Officer Mike Laing for Thirty Years of Service

3.2 Resolution: Honoring Officer John Rosette for Thirty Years of Service

**4. PUBLIC COMMUNICATIONS**

4.1 Oral and Written Communications

REDEVELOPMENT AGENCY – None.

PUBLIC FINANCING AUTHORITY – The Public Financing Authority Board has been cancelled. [See separate notice](#) (lilac paper).

CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR

**5. SCHEDULED ITEMS – None.**

**6. REPORT FROM CITY ATTORNEY**

6.1 Report Out from Closed Session of Any Final Action

## 7. OTHER BUSINESS

### 7.1 AFFORDABLE HOUSING ORDINANCE

To Review and Consider a Report and Planning Commission Recommendations Regarding Possible Amendments to Provisions of the Affordable Housing Ordinance (Article 21.7 of Title VII, Chapter 2 of the Fremont Municipal Code) Relating to Timing and Implementation Standards for Affordable Housing Requirements and Alternative Affordable Housing Plans

Contact Person:

Name:	Kelly Diekmann	Jeff Schwob
Title:	Senior Planner	Interim Director
Dept.:	Community Development	Community Development
Phone:	510-494-4540	510-494-4527
E-Mail:	kdiekmann@fremont.gov	jschwob@fremont.gov

STAFF RECOMMENDATIONS:

1. Endorse retaining the Ordinance provisions that preclude changes to an Affordable Housing Plan after issuance of the first building permit for a project.
2. Endorse modifying the Ordinance to allow developers to acquire units after issuance of building permit, subject to sufficient security being in place prior to release of for-sale market rate units within a project.
3. Endorse retaining the existing limitations on the types of market rate units suitable for conversion.
4. Endorse preparation by staff (based on input from the Commission and Council) of more detailed guidance in the Ordinance for evaluating alternative Affordable Housing Plan proposals.

### 7.2 TRAFFIC IMPROVEMENT PROGRAM – FISCAL YEAR 2010/11

Approve the Fiscal Year (FY) 2010/11 Signal Priority List and Allocate Funds Budgeted for Various Traffic Improvement Project for FY 2010/11 and FY 2011/12

Contact Person:

Name:	Ed Evangelista	Kunle Odumade
Title:	Associate Transportation Engineer	Transportation Engineer
Dept.:	Public Works	Public Works
Phone:	510-494-4424	510-494-4746
E-Mail:	eevangelista@fremont.gov	kodumade@fremont.gov

RECOMMENDATION:

1. Approve the FY 2010/11 Signal Priority List
2. Consider traffic calming options for Scott Creek Road and provide direction to staff.
3. Appropriate \$1,205,000 (\$840,000 from FY 2009/10 and FY 2010/11 and \$365,000 from FY 2011/12) from PWC 7953 account to the following projects:
  - a. \$875,000 of TIF funds to 531 PWC 8759 for Intersection Improvements at Blacow/Fremont, Blacow/Omar-Robin and Blacow/Boone.



- b. \$300,000 of TIF funds to 531 PWC 8760 for Intersection Improvements at Fremont/Enea & Fremont/Paseo Padre.
- c. \$30,000 of TIF funds to 531 PWC 8458 for the FY 2012/13 signal priority list and traffic improvement program preparation.

## **8. COUNCIL COMMUNICATIONS**

8.1 Council Referrals – None.

8.2 Oral Reports on Meetings and Events

## **9. ADJOURNMENT**





REPORT SECTION  
FREMONT CITY COUNCIL  
REGULAR MEETING

JUNE 28, 2011



- \*2.3 Second Reading and Adoption of an Ordinance of the City of Fremont Rezoning Property Located along Niles Boulevard Designated as APN 507-0828-005-00 & APN 507-0828-006-00 from Community Commercial District, Historic Overlay District (C-C)(HOD) to Planned District Historic Overlay District (P-2011-232)(HOD)**

**ENCLOSURE:** [Draft Ordinance](#)

**RECOMMENDATION:** Adopt ordinance.

- \*2.4 Second Reading and Adoption of an Ordinance of the City of Fremont Amending the Precise Plan for P-District 2009-9 from Property Located at 3651 Walnut Avenue**

**ENCLOSURE:** [Draft Ordinance](#)

**RECOMMENDATION:** Adopt ordinance.

**\*2.5 FINAL MAP FOR TRACT 8001 AND IMPROVEMENT AGREEMENTS – 42100  
BLACOW ROAD, LUNARE DEVELOPMENT, LLC  
Approval of Final Map for Tract 8001, Improvement Agreements for Public Streets  
(Blacow Road and Fremont Boulevard) and Construction of Private Streets (Borgo  
Common, Cerchio Terrace, Strada Common, Vicolo Terrace), and Dedication of Land and  
Public Easements for Tract 8001**

**Contact Person:**

Name:	Jayson Imai	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Engineering/Public Works	Engineering/Public Works
Phone:	510-494-4732	510-494-4748
E-Mail:	jimai@fremont.gov	nhughes@fremont.gov

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**Executive Summary:** The purpose of this report is to recommend that the City Council approve Final Map 8001, authorize the City Manager to execute agreements for construction of public and private improvements for Tract 8001, and accept the dedications of public streets and easements subject to improvement.

**DISCUSSION/ANALYSIS:** Tract 8001 is located on the northeast corner of the intersection of Fremont Boulevard and Blacow Road, in the Irvington District. The project encompasses 1.85 acres and includes 38 townhouse lots. The project is generally in conformance with Vesting Tentative Tract Map 8001 (PLN2009-00089) approved by Planning Commission on April 9, 2009. The developer, Lunare Development, LLC, has created Covenants, Conditions, and Restrictions (CC&Rs) for Tract 8001 that are consistent with and implement all of the provisions of the Vesting Tentative Map.

The developer has signed an agreement and posted bonds to guarantee construction of the public improvements (Fremont Boulevard and Blacow Road). Public improvements include removing existing driveways and sidewalk; installing a new driveway and sidewalk; planting street trees; grinding and overlaying portions of existing pavement; and other miscellaneous items of work. The bond amounts for construction of the public improvements are \$95,000 for faithful performance of the agreement and \$95,000 for payment of labor and materials, based on preliminary cost estimates.

The developer has also signed an agreement and posted bonds to guarantee construction of the private and common area improvements (Borgo Common, Cerchio Terrace, Strada Common and Vicolo Terrace). The bond amounts for construction of the private improvements are \$1,133,000 for faithful performance of the agreement and \$1,133,000 for payment of labor and materials, based on preliminary cost estimates. The Final Map has been reviewed and is now ready for City Council approval.

**FISCAL IMPACT:** There is no impact to the City. All improvements and inspection staff time will be paid for by the developer.

**ENVIRONMENTAL REVIEW:** The Planning Commission adopted a mitigated negative declaration and mitigation monitoring program for the tentative map and preliminary grading plan on April 9, 2009. The mitigated negative declaration includes mitigation measures that would reduce the identified

impacts to less than significant levels. The Final Map and improvement plans are consistent with the original project description, scope of work and identified mitigations of the adopted mitigated negative declaration. No further environmental review is required.

**ENCLOSURES:**

- [Draft Resolution](#)
- [Site Plan](#)

**RECOMMENDATION:** Adopt a resolution:

1. Approving the Final Map for Tract 8001.
2. Approving the Agreement for Public Improvements entitled, “Public Improvement Agreement, Tract 8001”, with the developer, Lunare Development LLC., a California limited liability company, and authorizing the City Manager or his designee to execute the agreement on behalf of the City.
3. Approving the Agreement for Private Improvements entitled, “Private Improvement Agreement, Tract 8001”, with the developer, Lunare Development LLC., a California limited liability company, and authorizing the City Manager or his designee to execute the agreement on behalf of the City.
4. Accepting the developer’s offer of dedication of easements, as identified on the Final Map, provided that the acceptance of the offer of dedication of easements for public roadway purposes shall be conditioned upon the developer’s completion of improvements to the satisfaction of the City Engineer.

**\*2.6 PHASE I – BEACON AVENUE, CALIFORNIA STREET AND WALNUT AVENUE PROJECT CONTRACT AWARD**

**Approval of Plans and Specifications, Appropriation of Funding and Award of Contract to the Lowest Responsible Bidder for the Phase I – Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC)**

**Contact Person:**

Name:	Craig Covert	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Public Works	Public Works
Phone:	510-494-4785	510-474-4748
E-Mail:	cchovert@fremont.gov	nhughes@fremont.gov

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**Executive Summary:** The purpose of this report is to recommend that the City Council approve the plans and specifications for the Phase I - Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC), accept the bid and award the contract for construction to the lowest responsive and responsible bidder, Stoloski and Gonzalez, Inc., in the amount of \$651,645.50 and appropriate \$593,316.40 in STP/CMAQ funding and \$175,000 in local match funding to the City project.

**BACKGROUND:** In spring 2010, the Metropolitan Transportation Commission and the Alameda County Congestion Management Agency (now the Alameda County Transportation Commission, or Alameda CTC) solicited funding applications for the Transportation for Livable Communities (TLC) Program.

After evaluating a number of projects, staff identified a project (the Midtown Streetscape Catalyst Project) meeting the parameters of the funding announcement. The project consists of streetscape improvements in the area bounded by Beacon Avenue, California Street and Walnut Avenue within the Central Priority Development Area that the City has identified as a focal point for future growth because of its proximity to the Fremont BART station and to the Fremont Boulevard bus corridor. In addition to the streetscape improvements, California Street will be reduced from two lanes in each direction to one lane in each direction. The City previously entitled Urban Housing Group's high-density 301-unit project at this location that is anticipated to serve as a catalyst for further development of the Downtown District. With the availability of the TLC grant in the amount of \$1,600,000 to fund the improvements within the fronting public right-of-way, the developer of the high-density housing, the Urban Housing Group, supported the City's application. The 20% local match will be provided from a portion of the developer's purchase price payment for the vacated portion of California Street, which will be incorporated into the developer's adjacent project.

Staff was notified in June that the Midtown Streetscape Catalyst Project was recommended by the Alameda CTC staff for inclusion in the County STP/CMAQ program. The Agency's Board approved this recommendation at its meeting on July 22, 2010. Accordingly, the City Council passed a Resolution of Local Support, Resolution No. 2010-55 on September 28, 2010.

**DISCUSSION:** During further study of the project in the design phase, staff determined that it would be necessary to phase the construction of the project to accommodate Urban Housing's on-site



construction schedule. Phase I of the project will narrow California Street from 4 lanes to 2 and install storm drain improvements. During and subsequent to the completion of Phase I, Urban Housing will proceed with the construction of its on-site parking garage and buildings and the relocation of water and sewer lines and installation of joint trench utilities. It is anticipated that the on-site construction period will take approximately 18 months. At that time, the City will be ready to proceed with Phase II of the public improvements, including the new curb, gutter, sidewalk, paving and landscaping around the perimeter of the site. The two phases of the City project will be coordinated with the developer's off-site utility relocation work.

In April 2011, the City received approval from Caltrans for STP/CMQ funding in the amount of \$593,316.40 for the construction and related staff costs for Phase I. These funds now need to be appropriated to the project. The project is scheduled to be complete in the fall. Later this year, staff will submit the request for authorization for the balance of the funding, \$1,060,000, for Phase II for FY 2011/12.

The Urban Housing Group has paid \$175,000 of the \$473,000 purchase price for the vacated portion of California Street to the City which will be used to cover the 20% local match of the estimated construction cost for Phase I.

**Traffic Control:** Due to the type of construction involved in this project, staff anticipates that the traveling public will experience some inconvenience during construction. Individual traffic lanes will be closed to traffic in order to facilitate storm drain installation and other construction operations. To mitigate the impact of traffic delays on the public, the contractor must provide definitive traffic control plans. City staff will review all traffic control plans prior to construction and monitor traffic control work during construction to ensure all possible effort is made to minimize the impact to the public. Advance construction message signs informing the public of the upcoming roadway construction will be posted before each work zone a minimum of 7 days prior to the anticipated construction. The signs will advise the public of possible delays due to construction and list the anticipated dates of work specific for each street. In addition, each affected business will receive a flyer describing the project at least two weeks before work begins in their area. Follow-up notices will again be distributed no later than two days prior to the start of construction.

During construction, electronic changeable message boards as well as temporary construction signs will be positioned in advance of the construction work zone at major cross streets alerting the public of the roadwork ahead and potential delays.

**Bid Results:** Bids were received on May 31, 2011, for the Phase I - Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC). The bids were received, as follows:

<b><u>BIDDER</u></b>	<b><u>TOTAL BID</u></b>
Stoloski and Gonzalez, Inc.	\$651,645.50
Pacific Underground Construction, Inc.	\$1,084,958.00
<hr/>	
Engineer's Estimate	\$ 530,000.00

The low monetary bidder, Stoloski and Gonzalez, Inc., is experienced in this type of project, is a responsible contractor and submitted a responsive bid. Staff has carefully reviewed the low bid and has determined that the costs are reasonable. The low bid used more recent unit costs that reflect higher fuel and other material costs than the Engineer's Estimate.

**PROJECT COSTS:** The following is a summary of total estimated costs for construction:

Construction Cost (Includes \$50,000 in contingency)	\$	651,645.50
Staff - Construction Mgt. & Inspection	\$	<u>90,000.00</u>
<b>Total Estimated Construction Costs</b>	\$	741,645.50

**FUNDING:** Funding available for the project is as follows:

Fund 522 – Federal STP/CMQ Funds	\$	593,316.40
Fund 502 - Outside Source (Developer Local Match)	\$	<u>175,000.00</u>
<b>Total Estimated Available Funding</b>	\$	768,316.40

Based on the contract amounts and project cost estimates, there are sufficient funds budgeted to award the construction contract.

**FISCAL IMPACT:** The Federal STP/CMQ Funds allocated to the project is \$593,316.40. The required 20% local match for the STP/CMQ Funds will be paid from the purchase monies paid by the adjacent developer, Urban Housing Group, for the vacated portion of California Street. Urban Housing has advanced \$175,000 of the purchase price for use on this project. Use of the funds paid by the developer for the vacated portion of California Street for the project is consistent with the requirements of State law that the purchase monies be paid into a fund available for the same purposes for which the property was used. All staff time will be funded by the project.

**ENVIRONMENTAL:** On March 21, 2011, the California Department of Transportation certified its determination that this project is a Categorical Exclusion under 23 CFR 771.117(c): activity (c) (3) of the National Environmental Policy Act (NEPA). This project was included in the Mitigated Negative Declaration previously adopted for the Urban Housing project on March 10, 2009. No further CEQA review is required.

**ENCLOSURE:** None

**RECOMMENDATIONS:**

1. Approve the plans and specifications for Phase I - Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC).
2. Accept the bid and award the construction contract for Phase I – Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC) to the lowest responsible bidder, Stoloski and Gonzalez, Inc., in the amount of \$651,645.50 and authorize the City Manager to execute the contract.

3. Appropriate the STP/CMAQ funding approved by MTC in the amount of \$593,316.40 to 522PWC8749 - Phase I - Beacon Avenue, California Street and Walnut Avenue Project No. 8749 (PWC).
4. Appropriate \$175,000 (from Urban Housing Group) to 502PWC8749 as the 20% local match.

**\*2.7 2011 SLURRY SEAL, 8240-C (PWC) CONTRACT AWARD**

**Approval of Plans and Specifications and Award of Contract to Lowest Responsible Bidder for 2011 Slurry Seal, 8240-C (PWC)**

**Contact Person:**

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**Executive Summary:** The purpose of this report is to recommend that the City Council approve the plans and specifications, accept the bid and award the contract for construction to Bond Blacktop, Inc., the lowest responsive and responsible bidder, in the amount of \$795,556.00 for the 2011 Slurry Seal Project, 8240-C (PWC).

**BACKGROUND:** The City's Engineering and Street Maintenance divisions jointly operate a pavement management system (PMS) that tracks street surface conditions and recommends annual preventative maintenance and rehabilitation actions for cost-effective treatment of the City's streets.

A slurry seal is a relatively inexpensive surface treatment that consists of the application of an emulsion of oil and sand to the existing pavement surface. As such, a slurry seal is considered preventative maintenance as it seals and protects the pavement surface and extends the life of the asphalt material below. Although slurry seals cannot restore lost load carrying capacity (structural integrity), they can slow down the deterioration of the street and extend the pavement life by up to five years when compared to a street left untreated.

Slurry seals are used on relatively new streets that are in reasonably good condition, have few or minor failed areas and do not require additional treatment to the pavement wearing surface. In advance of the contractor application of the slurry seal to the project streets, the City street maintenance crews are utilized to repair any pavement failure areas. All City street maintenance crew time and materials expended for slurry seal preparation are charged to the slurry seal project.

In order for local agencies to qualify for federal funds earmarked for pavement maintenance, the Metropolitan Transportation Commission (MTC) has established various criteria to allocate funding within the Bay Area region, with one of the criteria being that local agencies spend a minimum amount of their pavement maintenance budget on preventative maintenance projects each year as determined by the PMS. This minimum amount will vary slightly from city to city and is based primarily on the existing condition of a city's streets. Historically, the PMS has determined that the City of Fremont should allocate about 14% of the City pavement maintenance budget towards preventative maintenance projects. The 2011 Slurry Seal Project will allow the City to meet the preventative maintenance percentage established by the PMS and to qualify for the maximum federal fund allocation.

The base bid for this project will provide preventative maintenance for 115 street segments comprised of 4.1 centerline miles of arterial, 5.7 centerline miles of collector and 8.8 centerline miles of residential

streets covering nearly 380,000 square yards of pavement surface. Additionally, Bid Alternate No. 1 and Bid Alternate No. 2 will add 35 residential street segments comprising 4.0 centerline miles and covering another 84,000 square yards of pavement.

**Traffic Control:** Due to the size, scope and number of arterial, collector and residential streets included in this project, staff anticipates that residents and the traveling public will experience some inconvenience during construction. To minimize exposure of the slurry seal to vehicular traffic, staff and the contractor will limit access to and use of the roadway during construction. Individual traffic lanes and, if necessary, project street sections will be closed to traffic in order to facilitate crack sealing operations and the application of the slurry seal. To mitigate the impact of traffic delays on the public, the contractor must provide definitive traffic control plans. City staff will review and approve all traffic control plans prior to construction and will monitor traffic control work during construction to minimize the impact to the public. In addition, the contractor will post notices of parking restrictions on project streets no less than 72 hours before the start of work. Each affected business or residence will also receive a flyer describing the work, traffic impacts and parking restrictions at least two weeks before each phase of the work. Follow-up notices will again be distributed no later than two days prior to the start of construction. Throughout construction, notices will be posted on the City's website informing the public of which streets will be affected and the upcoming construction schedule.

## **DISCUSSION:**

**Bid Results:** Staff opened bids on June 7, 2011 for the 2011 Slurry Seal project, 8240-C (PWC). The project's total base bid is for 16 arterial street segments, 23 collector street segments and 76 residential street segments; 35 additional residential street segments were included as two alternate bid items. Four bids were received, as follows:

<b>BIDDER</b>	<b>BASE BID</b>	<b>ALT BID 1</b>	<b>ALT BID 2</b>	<b>TOTAL BID</b>
Bond Blacktop, Inc.	\$665,665.00	\$71,071.00	\$58,820.00	\$795,556.00
Valley Slurry Seal Company	\$670,467.00	\$73,099.00	\$60,901.00	\$804,467.00
American Asphalt Repair & Resurface, Inc.	\$751,023.85	\$84,151.85	\$67,460.80	\$902,636.50
Graham Contractors, Inc.	\$832,711.73	\$90,244.81	\$75,575.44	\$998,531.98
Engineer's Estimate	\$740,000.00	\$76,000.00	\$67,000.00	\$883,000.00

As stated in the project Special Provisions, determination of the low monetary bidder is based on the base bid without considering any alternate bid totals. Upon review of the bids submitted by Bond Blacktop, Inc., staff recommends that Council add Alternate Bid Item No. 1 and Alternate Bid Item No. 2 to the construction contract. As detailed below, there are sufficient funds budgeted for this project to include Alternate Bid Items No. 1 and No. 2 as part of the construction contract.

Bond Blacktop, Inc. is a responsible bidder with experience in this type of work. Their bid is responsive and all bid documents are in order.

**PROJECT COSTS:** The following is an estimate of the project costs:

Staff – Design/Design Administration	\$ 50,000.00
Construction Cost (low Base Bid plus Bid Alternate Nos. 1 & 2 – includes \$85,000 in construction contingency)	\$ 795,556.00
Staff & Materials – Roadway Preparation (City Forces)	\$ 160,000.00
Staff – Construction Inspection and Administration	\$ 100,000.00
Materials Testing	\$ 20,000.00
<u>Project Contingency</u>	<u>\$ 100,000.00</u>
<b>TOTAL Estimated Construction Costs</b>	<b>\$ 1,225,556.00</b>

**FUNDING:** Funding is available for the project as follows:

Fund 135 State Gas Tax 2103	\$ 1,277,903.02
<b>TOTAL Estimated Available Funding</b>	<b>\$ 1,277,903.02</b>

Based on the contract amounts and project cost estimates, there are sufficient funds budgeted for this project.

**FISCAL IMPACT:** This project will be funded through State Gas Tax. The project will extend the life of the pavement to be slurry sealed and reduce costs in the future to perform more expensive rehabilitation work.

**ENVIRONMENTAL:** This project is categorically exempt from review under the California Environmental Quality Act (CEQA) under Section 15301 (c) of the Guidelines, as the repair, maintenance or minor alteration of an existing public facility.

**ENCLOSURE:** [Location map and street list](#)

**RECOMMENDATIONS:**

1. Approve the plans and specifications for Slurry Seal 2011, 8240-C (PWC).
2. Accept the base bid amount and Bid Alternate Nos. 1 and 2 and award the construction contract for the 2011 Slurry Seal Project, 8240-C (PWC) to the lowest responsive and responsible bidder, Bond Blacktop, Inc., in the amount of \$795,556.00 and authorize the City Manager or his designee to execute the contract.

## **\*2.8 AWARD OF FUEL CONTRACT**

### **Authorization for the City Manager or Designee to Execute a Contract for the Purchase and Delivery of Gasoline and Diesel Fuel to City Fuel Sites**

#### **Contact Person:**

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**Executive Summary:** The City's fleet utilizes approximately 310,000 gallons of fuel per year. The current contract with Valley Oil Company for the purchase and delivery of fuel will expire on June 30, 2011. In April 2011, invitations for bids requesting pricing for the purchase and delivery of fuel, using the Oil Price Information Service (OPIS) weekly pricing as a benchmark, were advertised and sent to 601 fuel vendors. The invitation for bid requests resulted in five vendors submitting bids to the City. The invitation for bids results in award of a primary fuel contract to the lowest responsive and responsible bidder for a minimum of 200,000 gallons of fuel. In order to maximize potential cost savings, additional fuel needs may be met by soliciting bids via a proposed competitive "spot bid process" during times when it would be cost effective for the City to do so. After analyzing the five responses to the invitation for bids, staff recommends awarding the City's primary fuel contract to Falcon Fuels, Inc., the lowest responsive and responsible bidder.

**BACKGROUND:** The City's fleet is comprised of approximately 560 vehicles and pieces of equipment that include fire engines, police vehicles, general service vehicles, heavy equipment and generators that consume an average of 310,000 gallons of fuel annually (235,000 gallons are unleaded gasoline, and 75,000 gallons are low-sulfur diesel fuel). In order to sustain City operations, fuel for the City's fleet is made available at four main City-owned and operated fueling sites throughout the City. The locations of these fueling sites are as follows:

- Maintenance Center, 42551 Osgood Road
- Fueling Station, 1970 Stevenson Boulevard
- Fire Station 1, 4200 Mowry Avenue
- Fire Station 9, 39609 Stevenson Place

In addition to the four main fueling sites, the City also has 14 generators with large tanks that periodically require refueling. Several of these generators have fuel dispensing capabilities that allow for even greater fuel availability, and is especially beneficial in the event of an emergency.

Fuel is purchased throughout the year when existing supplies run low. The price the City pays is subject to market conditions at the time of purchase. Therefore, to allow ongoing competition and maintain a ready source of fuel, at least 200,000 gallons (which is approximately 2/3 of the City's annual fuel usage) would be guaranteed to the City's primary fuel provider, and the remaining fuel may be subject to a "spot bid process" that would give other fuel vendors the opportunity to bid on supplying the City

with smaller quantities of fuel as market conditions fluctuate. This innovative method of purchasing fuel has been successfully employed and proven effective by multiple other public agencies such as the City of Huntington Beach and the City of Long Beach. If a spot bid process had been utilized in the City during FY 2009/10, savings of \$6,536 would have been realized on 13,706 gallons of fuel that would have benefited from being procured through a spot bid process rather than from the City's primary fuel provider.

Staff has developed a Fuel Management Plan consistent with the proposed revisions to the City's Purchasing Ordinance that will allow the City to participate in an alternate contracting solicitation method, such as a spot bid process, to enable the City to maximize efficiencies through just-in-time fuel management practices. Once spot bidding is authorized, staff intends to utilize the City's existing fuel management contractor, ii Fuels, to perform the spot bidding process at no cost to the City, as provided for in their current contract.

**DISCUSSION/ANALYSIS:** The current contract with Valley Oil Company for the purchase and delivery of gasoline and diesel fuel is scheduled to expire on June 30, 2011. In order to ensure uninterrupted fuel service for City operations, in April 2011, specifications and invitations for bids were advertised and sent to 601 fuel vendors for the purchase and delivery of fuel. Vendors were invited to bid on becoming the City's primary fuel provider for a minimum of 200,000 gallons of fuel annually by submitting bids based on the OPIS average weekly fuel price. Hence, vendors submitted bids that indicated discounts or increases that would be applied to the OPIS average weekly fuel price.

Below is a summary of the five bid responses that were received. For comparison purposes only, the total cost reflected for each vendor is based on the City's estimated total annual fuel needs using the May 18, 2011 OPIS daily average fuel price of \$2.93 per gallon for unleaded and \$3.16 per gallon for diesel, and also includes freight charges based on tank sizes at each fuel delivery location.

Falcon Fuels, Inc.	\$941,653.74
Valley Oil Company	\$943,578.78
Western States Oil	\$954,102.68
Merrimac Oil	\$974,745.22
Interstate Oil	\$994,611.00

Staff analyzed the bids and determined that Falcon Fuels, Inc., is the lowest responsive and responsible bidder. Therefore, staff is recommending Council award the primary fuel contract to Falcon Fuels, Inc., to supply a minimum of 200,000 gallons of fuel.

Also in the invitation for bids, vendors were informed that the City reserves the right to accept competitive bids for the City's remaining annual fuel needs (approximately 110,000 gallons). Competitive bids for these needs would be solicited at various times during the year when fuel is needed, and would be based on the lowest OPIS daily fuel price. If the lowest of the bids is less than the price that the primary fuel contractor would charge, the lowest bidder would be awarded the next fuel order. Otherwise, the City's primary fuel contractor will fill the order based on its contracted price adjustment applied to the OPIS average weekly price.



Provisions to authorize the spot bid process are included in the revised Purchase Ordinance. This process will help maximize the City's savings on fuel purchases by giving the City the flexibility to buy from whoever has the lowest fuel pricing on any given day that the City requires additional fuel delivery. In order to ensure competitive bids on the primary fuel contract, the successful bidder of the primary contract would not be permitted to bid on the spot price bids during the year.

Staff recommends awarding the primary fuel contract to Falcon Fuels, Inc., for a minimum of 200,000 gallons of fuel. The primary fuel contract will be for a one-year term with options to renew for two additional one-year terms.

**FISCAL IMPACT:** Funds for the purchase and delivery of gasoline and diesel fuel are included in the FY 2011/12 Operating Budget. Because fuel prices fluctuate during the year, the exact cost cannot be determined at this time.

**ENCLOSURE:** None.

**RECOMMENDATION:** Authorize the City Manager or designee to execute a contract with Falcon Fuels, Inc., to be the City's primary vendor for the purchase and delivery of a minimum of 200,000 gallons of fuel for a one-year term and to renew the contract for up to two one-year terms, in accordance with Bid. No. 12-004.

## **\*2.9 FY 2011/12 PARATRANSIT WORKPLAN**

### **Adopt a Resolution Authorizing Submittal of a Workplan for the FY 2011/12 Measure B Paratransit Program to the Alameda County Transportation Commission (Alameda CTC)**

#### **Contact Person:**

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**Executive Summary:** The Alameda County Transportation Commission (Alameda CTC) administers the yearly allocation of Measure B sales tax revenues that are designated for paratransit programs. This funding, approved by Alameda County voters as part of the reauthorization of Measure B in November 2000, provides \$652,493 for the City's paratransit services in FY 2011/12.

In order for the City to access its yearly allocation of Measure B funds, staff was required to forward the City's annual program submittal for funding by April 8, 2011. A Council resolution formally authorizing submittal of the application is also required before fund disbursement by the Alameda CTC. This report briefly describes the paratransit services proposed, and includes a recommendation that the City Council adopt a resolution formally authorizing submittal of the application so that funds may now be dispersed.

Under Alameda County Measure B, South County cities must annually determine how to allocate their Measure B funding between local paratransit services, and services mandated under the Americans with Disabilities Act (ADA) and provided by the regional paratransit provider, East Bay Paratransit (a consortium of AC Transit and BART). This report also recommends that the City Council dedicate all Fremont Measure B paratransit revenues to fund the City-operated Paratransit Program.

A copy of the Alameda CTC Paratransit Program Application for Measure B funding, which contains a detailed project budget and additional program information, is enclosed.

**BACKGROUND:** For many years, the City of Fremont has provided essential paratransit services for its residents. These services enable seniors and people with disabilities to obtain medical care, shop for groceries, run errands and stay connected with family, friends and community activities. As a result of the reauthorization of Measure B, the countywide transportation sales tax, Fremont's allocation for City-based paratransit services increased from \$195,000 in FY 2001/02 to over \$700,000 in subsequent years. The Alameda CTC, a successor to the Alameda County Transportation Improvement Authority (ACTIA), estimates the City will receive \$652,493 for City-based paratransit services in FY 2011/12. These funds will be provided through the City's existing agreement with the Alameda CTC. In addition, the City will have about \$119,000 in a fund balance from FY 2010/11 that is designated in FY 2011/12 for an operational reserve fund.

The increase in Measure B funding over the last several years has enabled the City to be innovative in meeting the transportation needs of its growing senior and disabled population. Due to the increased need for reliable and efficient transportation, the quality of local paratransit service and the extensive

outreach and education conducted by staff, program enrollment has grown from approximately 700 to 1,900 participants over the past nine years. Despite this growth, the program has been responsibly managed to incorporate service parameters that have been realigned to reflect new economic realities.

**DISCUSSION/ANALYSIS:** The proposed Paratransit Program for FY 2011/12 is based on consumer feedback from the Paratransit Advisory Committee. It has three main service components, as follows:

- Door-to-Door Transportation for Individuals
- Group Trips
- In-Home Meal Delivery

Service components are described below:

**1. Door-to-Door Transportation for Individuals.** The City's door-to-door transportation service is available to Fremont residents of all ages who are disabled and unable to use public transit, and seniors who are over 80 years of age. Participants pay a fare of \$3.00 for each one-way trip within the local service area (Fremont, Newark and Union City). Based on demand patterns, service hours will be from 8 a.m. to 6 p.m. on weekdays, and from 9 a.m. to 3 p.m. on weekends. Eligible program participants will receive sixteen (16) one-way trip vouchers per month. The City will maintain the flexibility to increase or decrease the number of trip vouchers distributed during the course of the year based on service demand, program capacity and operating costs. For FY 2011/12, the City will provide approximately 12,500 door-to-door rides using either sedans or lift-equipped vans.

**2. Group Trips.** Based on consumer input, the City will continue its popular group trip service. The group trip component provides outings for seniors and persons with disabilities, many of whom are isolated due to disabling health condition(s), language barriers or major life crises (e.g., death of a spouse). The City provides several social and recreational group trips per week; individuals participate in the group trip program either through City-facilitated outings or through outings facilitated by community organizations serving older adults and persons with disabilities. Program participants pay \$2 each way for group trip transportation. The program will provide approximately 6,000 group trip rides in FY 2011/12.

**3. In-Home Meal Delivery.** For FY 2011/12, staff is proposing to continue to use Measure B funds to pay for meal delivery services through LIFE ElderCare's Meals on Wheels Program. A majority of Meals on Wheels participants are low-income, homebound, and at-risk of institutionalization. The City's funding for the Meals on Wheels Program provides nutritionally balanced meals for program participants, and thus eliminates trips that may otherwise be needed for shopping or meals. The Alameda CTC has determined that meal delivery is an allowable use of Measure B funds, and other cities, including Hayward and Newark, also use the funds for this purpose. The City will contract with LIFE ElderCare to provide a total of 54,000 meals to seniors and individuals with disabilities residing in Fremont.

**Public Input Process:** Staff has established a local Paratransit Advisory Committee (PAC) to provide feedback on the operations of the City's Paratransit Program and to help identify unmet paratransit needs in the Fremont community. The PAC is comprised of paratransit consumers, representatives of

social service agencies that work with seniors and individuals with disabilities, and members of the City's Senior Citizens Commission. Members of the PAC have endorsed the workplan and service parameters for FY 2011/12.

**Available Funds:** Measure B provides a specific allocation for paratransit services in each region of the County, including the Tri-Cities. According to the Alameda CTC's current sales tax projections, the City's expected share for paratransit services in FY 2011/12 will be \$652,493. In addition, the City will have approximately \$119,000 in fund balance reserves. In FY 2011/12, staff anticipates utilizing a significant portion of the reserve and stabilization funds to provide the critically needed services described above. Staff estimates that, at the end of FY 2011/12, reserve funds will equal about \$44,000. This amount is consistent with the Alameda CTC's policy regarding allowable operating reserves.

**Projected Expenditures:** The Paratransit Program budget contains line items for the following functions: trip provision, meal delivery, customer service and outreach, and management activities.

- 1. Trip Provision Activities (contracted and non-contracted):** The City currently contracts with MV Transportation, Inc., to provide door-to-door transportation for individuals and group trip services. The total compensation amount for the paratransit services contract for FY 2011/12 will be \$418,000. City-provided trip provision activities are also included in the program and budget, as allowed by the Alameda CTC. City-provided trip provision activities include staff coordination of group trips, vehicle inspections, voucher distribution, and processing of prepaid voucher fares.
- 2. Meal Delivery Activities:** The City will use \$47,460 in Measure B funds to support the Meals on Wheels Program in FY 2011/12.
- 3. Customer Service and Outreach:** Customer service and outreach activities, to assist with the application process, include eligibility determinations, consulting assistance to riders, and outreach to potential riders, caregivers and service providers, assisting with standing orders for dialysis and medical appointments, and working closely with skilled nursing facilities.
- 4. Management Activities:** Management activities include program oversight, planning, budgeting, fiscal management, contract management, maintenance and compilation of program statistics, overhead, and participation in regional meetings.

**Budget:** The proposed FY 2011/12 program budget is outlined below.

<u>Available Funds</u>	<u>Total</u>
Measure B Pass-Thru Funds	\$652,493
Fares (retained by City)	\$35,000
Reserve Funds - operations	<u>\$119,115</u>
<b>Total Funds Available</b>	<b>\$806,608</b>

<b><u>Expenditures</u></b> (by function)	<b><u>Total</u></b>
Trip Provision	\$468,070
Meal Delivery	\$47,460
Customer Service/Outreach	\$148,299
Management	<u>\$98,912</u>
<b>Total Expenditures</b>	<b><u>\$762,741</u></b>
<b>Reserve Funds</b> (estimated at the end of FY 2011/12)	<b>\$43,867</b>

More detailed budget information is included in the attached application.

**Allocation of Measure B Funds:** Under Alameda County Measure B, South County cities, including Fremont, must make an annual determination of how to allocate funds between local city-operated programs (“non-mandated services”) and East Bay Paratransit (“ADA-mandated services”). In the past, the Council has allocated all funds to the non-mandated, city-operated service. Staff believes the Council should continue this policy for the following reasons:

- East Bay Paratransit is required to provide paratransit services in Fremont under the ADA, and is required to fund these services out of its own budget. Any Measure B contribution provided by the City would simply offset costs incurred by East Bay Paratransit, not provide any additional services to local residents.
- The City-operated program provides a higher level of customer service and outreach than the regional ADA-mandated service, which staff believes is necessary for a successful service.
- The non-mandated service has now grown to the point that if any funds were allocated for ADA-mandated services, the city-operated paratransit service would have to be significantly reduced.

**FISCAL IMPACT:** There is no fiscal impact on the City’s General Fund because paratransit program operations are entirely funded through the Measure B half-cent sales tax. Appropriation of these funds was included in Council’s consideration of the FY 2011/12 operating budget, adopted on June 14, 2011.

**ENCLOSURES:**

- [Exhibit A: Draft Resolution](#)
- [Exhibit B: Alameda CTC Paratransit Program Application, Application Period July 1, 2011 through June 30, 2012](#)

**RECOMMENDATION:** Adopt a resolution:

1. Authorizing submittal of the City’s application to the Alameda CTC for paratransit funding under Measure B.
2. Authorizing the City Manager or his designee to notify the Alameda CTC that the City is allocating all Measure B paratransit revenues to the City’s non-mandated paratransit program.

## **\*2.10 MICROSOFT OFFICE 2010 AND WINDOWS 7 SOFTWARE LICENSES**

**Authorize the City Manager or Designee to Enter into a Contract with CompuCom Systems, Inc., for Microsoft Office 2010 and Windows 7 Software Licenses and to Execute Any Implementing Documents and Take Any Implementing Actions as Necessary**

### **Contact Person:**

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**Executive Summary:** The City currently uses the Microsoft Windows XP operating system and Microsoft Office 2003 suite as its standard computer software systems. Microsoft no longer supports these two products effective April 14, 2009. As a result, the City must upgrade these products to the current versions, which are Windows 7 and Office 2010. The City has 946 users (including the mobile data computers used by the Police Department) of the Office product for which Office 2010 licenses need to be upgraded. The City enrolled in a Microsoft Enterprise Agreement with CompuCom in August 2010 as a result of the City's competitive bidding process for the upgrade of 865 Windows 7 licenses, which excluded the Police Department's mobile data computers, and needs to "true up" the quantity of Windows 7 licenses to 946 licenses. Based on a competitive bidding process by the County of Riverside and the City's previous enrollment in a Microsoft Enterprise Agreement for Windows 7 with CompuCom, staff is recommending that the City Council authorize the City Manager or designee to enter into a contract with CompuCom Systems, Inc., for the licensing of Microsoft software in an amount not-to-exceed \$428,197.44 for a three-year period, with an annual allocation of \$142,732.48; to add 81 Windows 7 licenses to the existing contract with CompuCom at a cost of \$11,540.07; to authorize the expenditure of an additional amount not-to-exceed \$25,000 per year to maintain software licensing compliance, subject to adoption of the applicable budget in subsequent fiscal years; and to execute any implementing documents and take any implementing actions as necessary.

**BACKGROUND:** The City has standardized on the Microsoft Windows operating system and on the Office product for its word processing, spreadsheet, presentation and user database applications. The Microsoft Windows XP operating system was released in late 2001 and Microsoft Office 2003 was released in late 2003. Support for both of these Microsoft products ended on April 14, 2009, which means that Microsoft no longer provides automatic fixes, updates, or online technical assistance, and users no longer receive security updates to protect their computers. Microsoft released the Vista operating system and Office 2007 in January 2007. The City decided to not upgrade to the Vista operating system due to the many problems that users experienced with the software. The City also elected to remain with Office 2003 as the features and functionality of Office 2007 were not significant enough to upgrade the software at that time. Therefore, the City has been using the Windows XP and Office 2003 products for over seven years with no software upgrades.

**DISCUSSION/ANALYSIS:** The City has used the Microsoft Windows and Office products for many years. Both products reached end-of support on April 14, 2009. All City applications run on these software platforms and it is imperative that the software is kept current and refreshed periodically as

new versions of the software are released. The upgrades to Windows 7 and Office 2010 will enable the City to receive bug fixes, patches, software upgrades, and security updates from Microsoft, which are no longer available for Windows XP and Office 2003.

#### Microsoft Enterprise Agreement

The Enterprise Agreement provides volume discounting, includes software upgrades during the three-period at no additional cost, reduces the staffing resources needed to manage the licenses for the different versions because the City doesn't need to report which versions it is using under the EA or be required to track software to a specific computer or user, only the total quantity of licenses used for both products, and significantly simplifies software licensing issues for compliance. Entering into an Enterprise Agreement also fixes software costs for the three-year period. Costs will only be adjusted annually based on the actual inventory count of users.

Since June 2001, the California County Information Services Directors Association (CCISDA) and Municipal Information Systems Association of California (MISAC) have been participating in a state-wide Microsoft Enterprise Agreement that was initiated and administered by the County of Riverside through a competitive bidding process to provide a more cost effective license management program for participating California state and local governments. In December 2007, the County of Riverside solicited new bids for renewal pricing and to allow new enrollments by other government agencies. The objective was to award Enterprise Agreements to no more than five Microsoft Large Account Resellers (LARs). The County of Riverside, together with CCISDA and MISAC, selected CompuCom as one of the five LARs to serve as its contract vendor.

The City issued a purchase order and enrolled in a three-year Enterprise Agreement with CompuCom for the Microsoft Windows 7 operating system licenses as a result of a competitive bid conducted by the City in August 2010. The annual cost of the Windows 7 Enterprise Agreement is less than \$100,000 and no Council action was necessary. CompuCom, therefore, is the authorized LAR on record for the City's purchase of Microsoft products and is able to offer pricing for the Office 2010 licenses at a substantially lower unit cost than any other vendor by adding the Office 2010 licenses to the City's existing Enterprise Agreement for Windows 7.

The City's purchasing ordinance authorizes the City to enter into a contract for the acquisition of personal property based upon the terms of an agreement between the contractor and another public agency without a competitive bidding process, also known as "piggy-backing," where the City Manager makes the findings set forth in Fremont Municipal Code (FMC) Section 2-9702, as described below.

First, the County of Riverside issued a request for proposals and subsequently executed a valid master pricing agreement with Microsoft for its software products. The County of Riverside Enterprise Agreement leverages the collective buying power of multiple California governmental entities and enables the City to obtain more beneficial pricing due to the volume of purchases contemplated by the agreement as compared to the City requesting quotations for its own needs.

Secondly, the County of Riverside Enterprise Agreement is consistent with the purposes and goals of the purchasing code as set forth in FMC Section 2-9102. As evidenced by the County of Riverside's origination of the agreement, the Enterprise Agreement is structured to comply with procurement codes, guidelines and policies similar to those of the City.

Finally, the City solicited competitive bids for the Windows 7 licenses and entered into a Microsoft Enterprise Agreement with CompuCom as the LAR. As a result, the City can obtain beneficial pricing by adding the Office 2010 licenses to the existing Enterprise Agreement.

#### Microsoft Windows 7

The City needs to increase the number of Windows 7 licenses on the existing Enterprise Agreement by 81 to be consistent with the total number of licenses for Office 2010. The purchase of these additional licenses will be included with the enrollment of the Office 2010 licenses in the Enterprise Agreement.

#### Microsoft Office Alternatives

City staff carefully reviewed alternatives to Microsoft Office, such as open source “free” software and “cloud computing”, also known as “software as a service” (SaaS), and does not recommend replacing Microsoft products with these options at this time. Open source software enables users to modify programming, which means that maintenance and end user support can be difficult as there is no one agency responsible for the support of modified programming.

Google Apps is a “cloud computing”, or “SaaS,” option for word processing, spreadsheets, and presentations through the Internet. There are major security concerns with having a third party provide essential applications “in the cloud”. In April 2011, the U.S. Justice Department revealed that Google Apps for Government has not received the Federal Information Security Management Act (FISMA) certification. In addition, Google has not delivered the security requirements needed by Los Angeles Police Department for it to use the Google e-mail system.

Other factors to consider when remaining with Microsoft Office include the following: users are most familiar with the product, data exchange with other organizations is easier with Microsoft Office, and, most importantly, there are several major enterprise applications that integrate with the Office product including the Oracle/PeopleSoft Human Resources Management System. Replacing Microsoft Office with another alternative at this time would require extensive staff training and replacement (or modification) of several key applications resulting in a much larger expense than Microsoft licensing over the next three years.

**FISCAL IMPACT:** The total for the three-year Enterprise Agreement for Office Professional 2010 is \$428,197.44, with annual payments of \$142,732.48. (There is no sales tax on the licenses since the City receives the software license keys in an electronic format.) The cost to add the 81 licenses for Windows 7 is \$11,540.07.

There are sufficient funds for the annual and additional software license costs appropriated in the Information Technology Services Department FY 2010/11 equipment replacement budget (620-1716). Funding for the second year of annual software license costs is included in the adopted FY 2011/12 budget. Funding for subsequent years will be requested as part of the City’s annual budget process.

**ENVIRONMENTAL REVIEW:** Not applicable.

**ENCLOSURE:** None.



**RECOMMENDATION:** Authorize the City Manager or designee to enter into a contract with CompuCom Systems, Inc., for the licensing of Microsoft software in an amount not-to-exceed \$428,197.44 for a three-year period, with an annual allocation of \$142,732.48; to add 81 Windows 7 licenses to the existing contract with CompuCom at a cost of \$11,540.07; and to authorize the expenditure of an additional amount not-to-exceed \$25,000 per year to maintain software licensing compliance; subject to adoption of the applicable budget in subsequent fiscal years; and to execute any implementing documents and take any implementing actions as necessary.

## **\*2.11 CONSIDERATION OF CITY COUNCIL MEETING SCHEDULE**

### **Introduction of an Ordinance to Reduce the Number of Regular City Council Meetings from Four Meetings Per Month To Three Meetings Per Month**

#### **Contact Person:**

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**Executive Summary:** At the April 26, 2011 City Council meeting, Vice Mayor Chan presented a referral requesting Council to support directing staff to explore reducing the number of regular Council meetings from four per month to three per month, and on those occasions when an additional meeting(s) would be needed, with proper noticing, another meeting can be held.

**BACKGROUND:** In April 1999, the City Council adopted an interim ordinance modifying the monthly meeting schedule to provide for Council evening business meetings to be held at 7:00 p.m. the first, second and fourth Tuesdays of each month, and study sessions beginning at 4:00 p.m. on the third Tuesday of each month. The original interim ordinance expired on December 31, 1999. On January 11, 2000, the City Council decided to continue the trial schedule for another six months, with the second interim ordinance expiring on June 30, 2000. On June 13, 2000, the City Council adopted an ordinance adopting the interim schedule as the permanent schedule, which has been followed and in place since that time.

**DISCUSSION/ANALYSIS:** Over the past year, the Council is spending slightly fewer hours in meetings which are directly attributed to fewer substantive legislative matters scheduled on the open agenda for discussion and consideration and more legislative matters scheduled under the Consent Calendar.

Several considerations are offered for Council discussion of the proposal to modify the Council meeting schedule, as follows:

1. **Length of Council meetings:** With fewer Council meetings, it is possible that some meetings may extend late. To avoid late meetings, it will be incumbent upon staff to plan and schedule items in order to obtain a balance for each meeting related to substantive issues that will require Council discussion. To provide sufficient time for Council discussion on substantive issues, items of routine, non-controversial nature should be placed on the consent calendar at the Mayor's discretion. All items under the Consent Calendar may be approved by one motion and one vote. Any Councilmember or a member of the public will still have the opportunity to request any item to be withdrawn from the consent calendar for separate consideration as a regular order of business.
2. **Agenda schedule:** In order to reduce the effect of this schedule change on staff and the City Clerk's office, staff suggests that **Council meetings be held the first, second and third**

**Tuesdays of each month, to become effective after the August Council recess.** This will eliminate preparing and publishing an agenda on the third week of each month, providing additional time for staff to devote to other important projects. There will be an exception three to four times each year when there is a fifth Tuesday in the month. With the meetings being held as suggested, this would result in a gap between regular Council meetings of 14 days.

3. **Mitigate potential delays for customers:** The development community appreciates and has commented on the City's ability to schedule an acceptance of a tract map or other development-related agreements in a timely manner, including accepting of bids and awarding of construction contracts. Eliminating the fourth meeting may occasionally cause delays to development projects. On these occasions when additional meetings may be needed and with proper noticing, special meetings can be held.
4. **Study sessions:** Under this proposed schedule, scheduling a single time for study sessions each month will be eliminated. Items that will require informal, in-depth discussion of issues by Council and staff will require staff to become more focused and more selective in scheduling these as informational items as part of the regular meetings either when the agenda is light or consider scheduling a special meeting.
5. **Public input:** Should Council choose to change the meeting schedule, staff suggests that the proposed change be widely noticed to the public. Public noticing could be done through the media, the City's web page, and the municipal cable channel.

**FISCAL IMPACT:** None.

**ENCLOSURE:** [Draft Ordinance](#)

**RECOMMENDATION:** Introduce an ordinance amending Fremont Municipal Code, Sections 2-1100 and 2-1101.1 to adopt a new permanent schedule for scheduling regular meetings of the City Council to be held on the first, second and third Tuesdays of each month.

## **6.1 Report Out from Closed Session of Any Final Action**

## 7.1 AFFORDABLE HOUSING ORDINANCE

### **To Review and Consider a Report and Planning Commission Recommendations Regarding Possible Amendments to Provisions of the Affordable Housing Ordinance (Article 21.7 of Title VII, Chapter 2 of the Fremont Municipal Code) Relating to Timing and Implementation Standards for Affordable Housing Requirements and Alternative Affordable Housing Plans**

#### **Contact Person:**

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**Executive Summary:** The City recently received a request from Robson Homes (“RH”), a local developer, to consider changes to the Affordable Housing Ordinance (“Ordinance”) that was adopted in June 2010 after a two-year-long process. RH’s request was prompted by its desire to modify the affordable housing plan for a housing development that was approved prior to the adoption of the Ordinance, which is currently under construction (“Persimmon Park” aka “Solstice-Durham Road” project). The Ordinance does not allow modifications to the approved affordable housing plan after construction has commenced. Because the changes sought by the developer would affect the City’s housing policy into the future, the City Council at its May 24, 2011 meeting directed staff to analyze and report back on the broader potential impacts of modifying the Ordinance. This report provides staff’s analysis and recommendations along with recommendations from the Planning Commission. The Council is requested to provide staff with direction on changes to the Ordinance, if any, with which the Council wishes to move forward. If the Council chooses to proceed with an amendment, staff could return to the Planning Commission and Council for formal consideration of a draft ordinance as early as July.

#### **BACKGROUND:**

##### Inclusionary Ordinance

The City adopted an Inclusionary Housing Ordinance in 2002 as a strategy to increase the availability of affordable housing in the community. Essentially, the ordinance required new residential developments of seven units or more to make at least 15% of the units available at affordable rents or affordable cost. The affordable units were to be spread throughout the development and substantially the same as the market-rate units. The underlying philosophy was to make affordable housing available throughout the community. The ordinance also included provisions allowing developers in very limited circumstances relating to large lot single family detached homes to pay a fee in lieu of offering units for sale in the development; but for the most part the ordinance resulted in the creation of a stock of for-sale units targeted to moderate-income buyers. Over the course of time as the ordinance was implemented, there was some thought that although it was creating units for moderate-income level buyers throughout the community, it was not creating lower income housing opportunities and had some elements of perceived unfairness.

## Creation of Affordable Housing Ordinance

Based on City Council direction, in 2008 staff convened a stakeholder group of housing advocates, market-rate developers, and others to consider changes to the Inclusionary Housing Ordinance. Interests expressed by the stakeholder group and by the Council included:

- preserving and expanding the stock of affordable housing;
- incentivizing developers to disperse the benefits of the ordinance more broadly and to those at low, very low, and extremely low income levels;
- generating funds that could be aggregated to develop affordable rental projects;
- generating funds that could be used for supportive services; and
- providing flexibility to developers.

While the stakeholder group was considering these issues, two court decisions were issued in 2009 that affected local inclusionary housing ordinances (relating to in-lieu fees and rental projects). As a result, the City undertook a nexus study to further analyze affordable housing requirements.

In June 2010, Council adopted the revised Ordinance. At that time, the Ordinance name was changed from the “Inclusionary” Ordinance to the “Affordable Housing” Ordinance. The Ordinance retains the basic requirement for 15% of on-site for-sale units to be set aside for affordable housing, but it also allows all for-sale developers subject to the Ordinance to opt to pay an in lieu fee in place of providing on-site units. This approach meets the City’s interest of generating funds that can be aggregated to support affordable rental projects and to pay for supportive services. A portion of these funds (10%) will fund supportive housing services and (5%) will be used to administer the program. Rental projects are required to pay an impact fee (“Affordable Housing Impact Fee”) rather than construct units on site due to the Palmer case of 2009. Developers must elect to construct the units or pay the in-lieu fee prior to issuance of the first building permit for the project. In-lieu fees and affordable housing impact fees can be deferred consistent with City ordinances that allow the payment of fees at building final, certificate of occupancy of a building or 18 months after issuance of a building permit, whichever occurs first.

The Ordinance also gives developers the option of preparing an alternative Affordable Housing Plan that would allow one of several alternatives to on-site construction or payment of the in lieu fee. These alternatives include (a) provision of on-site rental units; (b) off-site construction; (c) property dedication; (d) purchase of existing market-rate units; and (e) preservation of affordable units at risk of loss. Affordable Housing Plans are subject to City approval at the time of project entitlement, and may not be modified after issuance of the first building permit

Since the revised Ordinance was adopted, RH has been interested in pursuing the alternative relating to purchase of existing market-rate units. Alternative (d) allows developers to purchase market-rate units and convert them to affordable housing, provided the units are either vacant and foreclosed properties or properties requiring substantial rehabilitation equal to at least 25% of the after-rehabilitation value of the property.

## Potential Changes to Ordinance

In connection with the previously approved Persimmon Park project, RH requested several revisions to the Ordinance. These revisions are described in detail in a letter dated May 3, 2011 (Informational Item #1).

While RH's requested modifications are in the context of the Persimmon Park project, the proposed changes would have important ramifications for City housing policy more generally. Fremont Municipal Code (FMC) Section 2-23100 requires that where changes to applicable standards and regulations apply citywide and are general in nature, they must be initiated by the City. Accordingly, on May 24, 2011, the City Council directed staff to prepare a report describing various options for revising the Ordinance and the policy implications of these proposed changes.

Staff prepared a report with recommendations and presented it to the Planning Commission at their June 9, 2011 meeting. Both staff's and the Commission's recommendations are described in more detail below.

At tonight's hearing, the Council is asked to review staff and Commission recommendations and to provide direction to staff for changes to the Ordinance, if any.

### **DISCUSSION/ANALYSIS:**

This report focuses on the following Affordable Housing Ordinance policy issues listed below.

1. Timing for Review of Affordable Housing Plans
2. Types of Market-Rate Units Eligible for Purchase and Conversion
3. Other Issues

### **Issue 1: Timing for Review of Affordable Housing Plans & Provision of Affordable Units**

The Ordinance currently requires a developer who wishes to take advantage of alternatives to on-site construction of affordable units to submit an Affordable Housing Plan at the time of entitlement. Changes to the approved plan may only be submitted for consideration to the original approval body prior to issuance of the first building permit for the project (or phase of the project, if phasing is approved). The Ordinance does not allow a developer to modify the approved Affordable Housing Plan once they obtain building permits for the project.

### **Policy Options for Affordable Housing Plans:**

Options include:

- a. Leave the Ordinance unchanged regarding timing of requesting modifications to an approved Affordable Housing Plan.
- b. Allow changes to be proposed by the developer at any time until the project is completed.
- c. Modify the Ordinance to allow changes to an Affordable Housing Plan after issuance of building permits in cases where developers submit a request to the City prior to permit issuance but do not receive a City determination prior to pulling permits.

**Analysis:** The current requirement is intended to memorialize commitments to affordable housing made by developers during the entitlement process in an Affordable Housing Plan. In recognition that changes to a project can occur between entitlement and building permit issuance, the Ordinance allows for the City to approve modifications to the Plan until the first building permit for the project is issued.

Allowing changes after permits are issued could benefit developers if changes in the market make it financially advantageous to modify the approach to meeting the affordability requirement. For example, a developer who elected to pay the in lieu fee could pull building permits, then determine several months into construction that providing on-site units was more cost-effective due to a decrease in market prices for the units. In this scenario, the developer could realize a financial gain if allowed to change the Affordable Housing Plan after issuance of permits.

From the City perspective, there are disadvantages to allowing changes in the Plan after permit issuance. One of the goals of the Ordinance is to give developers the option of paying fees, which would then be used to support affordable housing projects and programs. In order to administer these programs and develop new projects, the City will need some level of certainty regarding the amount of funding available. Allowing changes at a point after permit issuance would make it much more difficult to accurately assess how much funding was available for projects and programs, making it more difficult to achieve the Ordinance's goals overall of increasing the supply of housing.

Evaluation of Affordable Housing Plans also requires considerable staff time. Staff's experience so far in administering the Ordinance is that each request requires input from several City departments and in many cases unique legal agreements need to be drafted, and requested changes must go through a hearing process. While the developer is responsible for paying the staff costs, time spent re-evaluating Affordable Housing Plans is time that cannot be spent on other City priorities.

It is possible that a developer could propose a change that would result in more affordable housing being produced than in the original Plan. By not allowing late changes, the City would be foregoing the possible benefits to the community that might occur.

**Policy Options Related to Timing for Securing Off-Site Affordable Housing Units and Bringing Them On Line:**

Section 8-22177 (d) currently provides that if an affordable housing plan is approved that allows a developer to meet its affordable obligation by purchasing existing market rate units and making them available at affordable cost, the developer must have acquired title to the existing market-rate units proposed to be converted to affordable units before any building permit can be issued for the new market-rate units and deliver affordable units commensurate with market rate units.

Options include:

- a. Leave the Ordinance unchanged regarding timing of affordable housing units (e.g., developer must have control of off-site affordable units at time of entitlement and bring one affordable unit on line concurrent with construction of each seven market-rate units)



- b. Modify the Ordinance to allow developers the flexibility to secure off-site units after building permit issuance but still bring one affordable unit on line concurrent with each seven market-rate units.
- c. Modify the Ordinance to allow developers the flexibility to secure off-site units after building permit issuance. Should the affordable unit not be ready prior to the first market rate unit, the developer may elect to pay the in-lieu fee or (for a period not to exceed 12 months) deposit the otherwise required in-lieu fees for seven market rate units into a trust account with the City. If the affordable unit has not been made available after 12 months, the City would transfer the funds into the City's Affordable Housing Fund in lieu of the off-site unit and the developer's obligation will be deemed satisfied.

**Analysis:** Another related timing issue is the provision of the affordable units in relationship to the construction of market rate units wherein the new affordable units are foreclosed units or rehabilitated units. Developers have expressed the need for additional time to secure a foreclosed unit (as timing is dependent upon bank ownership in many cases). In the case of a rehabilitated unit, staff review and verification time along with developer construction time is needed to ready a unit for resale. Developers would like to have additional time to secure and/or rehab units while market rate units are under construction or in some instances may be ready for sale prior to new affordable units. At the present time, developers have expressed interest in deferring the in-lieu fee as security for affordable units. This system could work up-until building final, certificate of occupancy or 18 months, whichever occurs first but it would also need to be tied to affordable housing unit completion in relationship to every seven market rate units (15% equivalent) within a project. As such, the developer would need to assure an affordable housing unit was ready for occupancy for each seven market-rate units constructed in the project. If the affordable unit is not ready for occupancy, staff recommends that the in-lieu fees be collected for seven units prior to the first sale of one of the seven market rate units within the project and placed within a trust account prior to release of liens on market rate units within the project.

Staff recognizes that it is both risky and financially difficult for developers to have control of properties prior to issuance of building permits. Additionally, there are holding costs associated with ownership. Finally, timing can be challenging in light of bank ownership and rehabilitation work and staff verifications.

Conversely, a more complex timing and enforcement mechanism creates administrative burdens and has further impacts on limited staff resources and has additional cost implications to a developer and the City in terms of ongoing use of staff time and resources. Not all City costs for these agreements are recouped, for example the City Attorney's office and the Housing Division costs are not presently covered.

### **Staff Recommendation:**

In regard to when a developer can apply to change its Affordable Housing Plan, staff recommends that the Council endorse retaining the Ordinance provisions that preclude changes to an Affordable Housing Plan after the first building permit is issued. Staff's assessment is that the need to have some certainty regarding the amount of funding available to support housing projects and programs and the need to efficiently utilize staff resources outweigh the benefits that might occur from a revised Plan.

In regard to timing for when existing Affordable Housing Units must be acquired, staff recommends the ordinance be modified to allow developers to acquire units after issuance of building permit subject to sufficient security being in place prior to release of for-sale market rate units within a project. Prior non-deferred payment of in-lieu fees may be appropriate security; staff will need to analyze this option more thoroughly.

### **Planning Commission Recommendation:**

In regard to when a developer can apply to change its Affordable Housing Plan, the Commission recommends that the Council endorse modifying the Ordinance to allow changes to an Affordable Housing Plan after issuance of building permits in cases where developers submit a request to the City prior to permit issuance but do not receive a City determination prior to pulling permits.

In regard to timing for when existing Affordable Housing Units must be acquired, the Commission recommends the ordinance be modified to allow developers to acquire units prior to issuance of certificates of occupancy, with in lieu fees as security. In order to provide certainty to the City, the timing requirement should include milestones for completing the affordable housing plan and should describe when forfeiture of the security will occur. A performance bond model could be used or a plan similar to the Central Park South project with phases of unit construction. The Commission does not recommend a rigid one affordable unit provided for every seven market rate units during project construction.

### **Issue 2—Types of Market-Rate Units Eligible for Purchase and Conversion**

As described previously, Alternative (d) allows the developer to purchase market rate units for conversion to affordable units. The Ordinance specifies that for this alternative, only certain types of market rate units are eligible, specifically:

- Vacant, foreclosed properties: **or**
- Properties requiring substantial rehabilitation equal to at least 25% of the after-rehabilitation value of the property

While Alternative (d) does not result in production of new units, it can provide other benefits. By converting vacant and foreclosed units to occupied affordable units, Alternative (d) could reduce the potential for community blight from neglected homes. In many instances, however, developers are proposing to buy condominium units wherein the outward appearance of the units and complex are in good, if not excellent, condition. For those condominium projects where the outward appearance indicates need for work, there is concern that subsequent “special assessments” or increases in homeowner’s dues could be beyond the wherewithal of a qualified affordable housing purchaser and could result in loss of the unit, particularly for units at deeper affordability levels.

For properties requiring substantial rehabilitation, conversion provides a mechanism to upgrade the existing housing stock prior to placing a qualified purchaser into the unit, consistent with goals and policies in the Housing Element of the General Plan. This alternative may also present long-term challenges for purchasers with limited incomes in that they may be faced with large expenses over their ownership term (e.g, a new roof or sewer lateral or replacement of critical appliances). However, this

approach does not necessarily create a net increase in actual affordable housing units in the city as it may be adjusting the market rate value from moderate income down to low or very low income. Additionally, when purchasing occupied rather than vacant units there are potential issues of displacement or that a qualified household would not inhabit the home until the current occupant voluntarily leaves.

RH has requested that the City consider revising the Ordinance to expand this alternative to allow developers to convert any type of market rate unit to an affordable unit.

### **Policy Options:**

Options include:

- a. Leave the Ordinance unchanged regarding eligible units
- b. Allow conversion of any type of market rate unit without restriction.
- c. Allow conversion of any type of market rate unit, but require the developer to pay the City's costs to administer a new program of managing resales for-sale units for low- and very-low-income buyers as well as administration of a program that provides hardship assistance (grants or loans) for unexpected one-time major expenses.

### **Analysis**

#### **1. Likely Benefits to Developers**

For developers, it would be beneficial if the Ordinance allowed conversion of any market rate unit. Foreclosed units are not always available in the marketplace, and even when available there can be great uncertainty around the timing of a purchase. Also many condominium units on the market do not require substantial rehabilitation and it would be easier to find units within the target areas around transit.

In the current market, purchasing market rate units may be financially advantageous to the developer compared to providing on-site units or paying the in lieu fee. Staff modeled two different scenarios in an attempt to determine whether revising the Ordinance would provide financial benefit to developers choosing this alternative, and if so, how large that benefit would be. One scenario looked at a new 20-unit development of three-bedroom, 1,800-square-foot townhouses selling for \$540,000 each; the other looked at a 20-unit development of 4-bedroom, 2,200-square-foot small-lot single family homes selling for \$660,000 each. Both scenarios used home cost data from the 2009 Nexus Study performed as background to the Ordinance, and both scenarios assumed that the effective fee was the July 1, 2011 Tier II fee. The scenarios also assumed that the developer would pay 15% of the unit purchase cost + any rehabilitation costs to the City to cover costs associated with re-sales as well as administration of emergency reserves for hardship cases associated with unexpected major costs for each converted unit. The findings of the analysis were:

- In both scenarios, it was advantageous for the developer not to build on-site moderate-income units, but to choose the in lieu fee or the off site purchase.

- In both scenarios, if the developer were allowed to purchase two-bedroom units at market and convert them to moderate income units, it would cost the developer almost nothing, because market prices are at about the level that is affordable to moderate income buyers
- In both scenarios, if the developer purchased equitable three-bedroom units to match the new development three-bedroom units, there was no obvious advantage over paying the in lieu fee.
- In the scenario where the developer is building townhouses, the in lieu fee appears to be the most financially advantageous alternative, slightly less expensive than purchase/conversion of two-bedroom units to low-income units.
- In the scenario where the developer is building single-family homes, conversion of market rate units becomes the most advantageous. This is because as the developer's products (new homes) go up in size, so do the in lieu fees charged under the Ordinance; whereas the cost of converting a market rate unit is relatively constant and has no connection to the size of the developer's homes. Therefore the larger the developer's homes, the more advantageous the conversion alternative becomes compared to the in lieu fee.

The two scenarios and the results are included as Information Item #2.

Staff did not analyze the scenario of a developer purchasing market rate apartments and converting them to affordable units. However, this approach would likely create a substantial financial benefit to the developer compared to paying the in lieu fee, building on-site units, or purchasing individual off-site market rate units. Typically the value of an apartment in larger sized complexes will be \$150,000 dollars or less. Smaller projects like tri-plexes would have a higher per unit cost because of the constant minimum value of land itself. Purchasing apartments in small complexes would also concentrate affordable units in one location without any guarantee of experienced on-site management or provision of supportive services. It could also result in the displacement of numerous apartment dwellers if they did not meet the affordability requirements of the building. Purchased apartments are more likely to have no net benefit as a net increase in affordable housing stock as targeted lower value complexes will already be affordable at market based rents.

## 2. Likely Impacts to the City

For the City, revising the Ordinance to allow any market rate unit to be converted would likely have a number of impacts. One significant impact is that it would reduce the desirability of the in lieu fee alternative to developers. If fewer developers were to choose the in lieu fee, some goals of the Ordinance, including generating 10% of funds for supportive services and creating a revenue stream for production of new affordable projects, would be impeded. Additionally, 5% of the in lieu fee is to be set aside as a dedicated funding source for administering housing programs; if fewer developers choose to pay the fee, it will reduce the funding available for program administration. This could become an even greater problem if the Governor's proposal to eliminate Redevelopment is successful, since all housing staff would then potentially need to be funded by the City.

Changing the Ordinance to broaden conversion options would not only reduce the funding available to administer programs, but it would also likely increase the cost. The City would need to develop a new program to manage the resale of affordable units to low- or very low-income buyers (currently the City's resale program is limited to moderate-income buyers). While there are similarities between the two, the new program would likely be more costly to administer on a per-unit basis because:

- There would be fewer units to administer, so fixed costs would be spread over a smaller number of units
- Low and very-low income buyers are likely to need more staff assistance to get through the purchase process and also to meet ongoing obligations
- The pool of potential low- and very-low income buyers would be different from the pool for the moderate-income program, requiring a different strategy for outreach and recruitment
- There are likely to be more defaults among lower-income buyers, requiring more staff involvement in re-marketing units

Broadening conversion options also reduces the likelihood that the units originally envisioned as desirable targets for conversion—vacant and foreclosed units and units in need of substantial rehabilitation—will be converted.

In addition, converted units will not count towards meeting the City’s Regional Housing Needs Allocation numbers (this is also true for the conversion options already allowed in the Ordinance).

There would be some potential benefits to the City from allowing additional conversion options. Affordable units would likely be made available sooner than would be the case if the developer paid the in lieu fee. Also, it is possible that the financial benefit realized by the developer would be enough to cause a project to move forward that might otherwise be too financially risky. In this case, both affordable and market rate units would be produced that might otherwise never be built.

#### **Staff Recommendation:**

Staff recommends that the Council endorse retaining the existing limitations on the types of market rate units suitable for conversion. Should the Council decide to endorse an alternative that broadens the types of units that can be converted, staff recommends that consideration be given to requiring developers to pay the costs of administering the conversion program.

#### **Planning Commission Recommendation:**

Planning Commission recommends that Council endorse expansion of the types of market rate units suitable for conversion to include “short sale” properties, whether occupied or vacant.

#### **Issue 3--Other Issues**

#### **Guidance for Evaluating Alternative Affordable Housing Plan Proposals:**

The current ordinance provides for payment of the in-lieu fee as an accepted alternative to the basic ordinance requirement (provision of 15% of units set aside as affordable to moderate income households). With the exception of this alternative, staff has identified that there are challenges in evaluating other alternatives and whether they have a greater benefit, namely:

- a. Comparison of developer costs in dollar value of in lieu fees versus alternatives
- b. Units that may be produced by the City with in lieu fees versus alternative off-site units

- c. Is a deeper level of ownership affordability desirable in light of City program administration costs?
- d. Equity in unit types and bedrooms counts

**Staff Recommendation:**

Staff recommends that Council provide direction to staff regarding evaluation of alternatives to on-site construction or payment of the in lieu fee. Staff will use this direction to draft refinements to the Ordinance language regarding evaluation of alternatives.

**Planning Commission Recommendation:**

The Commission requests that City Council consider determining priorities for affordable housing within the context of the Ordinance in regards to concentration, diversity, types of units, and the issue of equity of affordable housing plans. The Commission believed these were important issues but has no consensus recommendation.

**FISCAL IMPACT:** In general, adopting amendments that make the Ordinance more administratively complex will require added staff time for each project. Financial costs will for the most part be passed on to developers. However, there is also an “opportunity cost”: the time spent administering more complex alternatives to the Affordable Housing Ordinance will reduce staff time available for other projects and priorities.

**ENVIRONMENTAL REVIEW:** The review and action taken by the City Council is exempt under Article 5, Section 15061(c)(3) of the California Environmental Quality Act (CEQA) in that the activity is not defined as a “project” under the adopted guidelines. There is no commitment or approval of an activity related to physical changes in the environment. If an actual zoning text amendment to the Ordinance subsequently proceeds forward, such specific changes to the Ordinance would be a project subject to the California Environmental Quality Act.

**ENCLOSURES:**

- [Informational Item 1: Robson Homes Letter](#)
- [Informational Item 2: Cost Analysis of Two Development Scenarios](#)
- [Informational Item 3: Draft Planning Commission Minutes from June, 9, 2011](#)

**Planning Commission Recommendation:**

1. Modify the timeline for amending an approved affordable housing plan to allow changes up until certificate of occupancy.
2. Modify the timing requirement of providing affordable housing units to allow for in lieu fee as security for completing the affordable housing plan prior to issuance of certificates of occupancy, rather than acquisition prior to issuance of building permits. The timing requirement should include milestones for the completing the affordable housing plan and when forfeiture of the security will occur to provide certainty to the City. Ideas for posting a security include the model of a performance bond, a phasing plan similar to Central Park South, etc. New off-site affordable units do not need to come online in a rigid 1 affordable unit for 7 market rate unit ratio.
3. Modify Alternative D to allow for purchase of any “short sale” property, whether occupied or vacant.
4. Request that City Council consider determining priorities for affordable housing within the context of the ordinance for distribution and concentration and equity of housing diversity and unit types.

**STAFF RECOMMENDATIONS:**

1. Endorse retaining the Ordinance provisions that preclude changes to an Affordable Housing Plan after issuance of the first building permit for a project.
2. Endorse modifying the Ordinance to allow developers to acquire units after issuance of building permit, subject to sufficient security being in place prior to release of for-sale market rate units within a project.
3. Endorse retaining the existing limitations on the types of market rate units suitable for conversion.
4. Endorse preparation by staff (based on input from the Commission and Council) of more detailed guidance in the Ordinance for evaluating alternative Affordable Housing Plan proposals.

## 7.2 TRAFFIC IMPROVEMENT PROGRAM – FISCAL YEAR 2010/11

### Approve the Fiscal Year (FY) 2010/11 Signal Priority List and Allocate Funds Budgeted for Various Traffic Improvement Project for FY 2010/11 and FY 2011/12

#### Contact Person:

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**Executive Summary:** The purpose of this report is to request that the City Council approve the Fiscal Year (FY) 2010/11 Signal Priority List, and allocate funds budgeted in PWC 7953 (Traffic Improvement Program) to various traffic improvement projects. The projects staff recommends the following:

1) intersection improvements at Blacow Road/Fremont Boulevard; Blacow Road/Omar Street-Robin Street; Blacow Road/Boone Drive; Fremont Boulevard/Enea Court and 2) preparation of the 2012/13 signal priority list and traffic improvement program. No new traffic signals are being proposed. Due to the neighborhood concerns from a traffic accident that occurred on Scott Creek Road on October 26, 2010, staff was directed to provide Council with a report on the speeding issues raised and the results of the traffic signal warrant analysis for traffic signals requested along Scott Creek.

**BACKGROUND:** There are 208 signalized intersections within the City limits. The City of Fremont currently has 161 City-owned or maintained signalized intersections, and Caltrans controls 47 additional signalized intersections. The City has been using a traffic signal priority list as the basis for allocating capital improvement funds for traffic improvement projects since FY 1980/81. The City evaluates the need for new signals at candidate intersections based on the criteria set forth in the California Manual of Uniform Traffic Control Devices (MUTCD). Candidate intersections are determined by City staff and requests from the Council and the public. The list is analyzed every two years.

Intersections that meet at least one of the following warrants are included in Signal Priority List: eight-hour vehicular volumes; four-hour vehicular volumes; peak hour volume; school crossings; and, accident experience. Intersections on the list are ranked based on a priority rating system. The rating system is used to make recommendations for the installation of new traffic signals. Each intersection is assigned a series of points based on its specific data in six categories using a weighted scale. A maximum number of 75 points can be awarded for an intersection. Points are added, and the intersections are arranged by descending number of points to form the priority list.

In addition to new traffic signals, the City's Traffic Improvement Program fund is also used to make other traffic-related improvements, such as replacing outdated traffic signal equipment, making intersections more pedestrian friendly, and making ADA-related improvements.

#### DISCUSSION/ANALYSIS:

**Traffic Improvement Program for FY 2010/11:** Thirty-seven intersections were reviewed during the preparation of the FY 2010/11 Signal Priority List. Experience shows that the number of accidents (right-angle and left-turn collisions) may decrease after the installation of a traffic signal. However, the



installation of an unjustified or improper traffic signal control (e.g., the use of a traffic signal to attempt to reduce vehicle speeds) can cause excessive delay, excessive disobedience of the signal indications, increased use of less adequate routes as drivers attempt to avoid the signals, and increase in the frequency of crashes, especially rear-end collisions. Even well located traffic signals can result in through traffic on a major street experiencing increased congestion as cars have to stop at a new signal. Therefore, even though an intersection may meet one or more of the warrants, the installation of a new signal should only be considered when the advantages far outweigh the potential disadvantages. Enclosure A shows the FY 2010/11 signal priority list for intersections that met one or more warrants, and Enclosure B shows the list of intersections evaluated that did not meet any warrants.

For Council's information, the top three intersections in the signal priority list are discussed below, although none are recommended for a new traffic signal installation:

*Auto Mall Parkway/Southlake Common – Ranked No. 1 (42 Points):* This intersection is a three-legged intersection with the minor street (Southlake Common) serving a mobile home park. This intersection ranked high because of the high traffic volume on Auto Mall Parkway. Since there is a wide median along Auto Mall Parkway (see Enclosure C for details), drivers making a left turn out of Southlake Common can cross the westbound lanes of Auto Mall Parkway and wait in the median before entering into the eastbound traffic lanes. There is good visibility at the approaches to the intersection. Based on staff observations, very minor delay is experienced by the side street with queues ranging from one to four vehicles. Installation of a traffic signal could increase delay on Auto Mall Parkway and congestion at this intersection, and therefore is not recommended at this time.

Number of Accidents: 1 (2008), 1 (2009), 0 (2010)

*Blacow Road/Gatewood Street – Ranked No. 2 (41 points):* This intersection is a three-legged intersection. This intersection ranked high because of pedestrian activity, and it is located near a park and school. However, a majority of the pedestrians that were observed at the intersection walked on the existing sidewalk that crosses a minor driveway on the north side of the intersection with minimal conflict between vehicular and pedestrian traffic (see Enclosure D for details). Peak hour field observations showed no substantial delay or congestion at the intersection. A high percentage of the vehicles turning out of Gatewood Street made right turns, and there were sufficient gaps in the traffic on Blacow Road to allow vehicles to turn into or out of Gatewood Street. The installation of a traffic signal could increase delay and congestion at this intersection, and therefore is not recommended. In 2008, a traffic signal was installed at the intersection of Blacow Road and Greenpark Drive. This intersection serves the driveway to Irvington High School to the north and Greenpark Drive to the south. This signal was installed in part to improve pedestrian safety for students that cross Blacow Road.

Number of Accidents: 1 (2008), 0 (2009), 0 (2010)

*Grimmer Boulevard/Seneca Park Drive – Ranked No. 3 (34 points):* This is a four-legged intersection controlled by stop signs on Seneca Park Drive. This intersection ranked high because of the high traffic volume on Grimmer Boulevard. Based on staff observations during the peak hour conditions, there was no substantial delay or congestion noted at the intersection since there were sufficient gaps in the traffic on Grimmer Boulevard to allow vehicles to turn into or out of Seneca Park Drive. Vehicle queue lengths were typically only one to two vehicles on the side street. The installation of a traffic signal could

increase delays on Grimmer Boulevard and congestion at this intersection, and therefore is not recommended.

Number of Accidents: 0 (2008), 1 (2009), 1 (2010)

**Scott Creek Road:** On October 26, 2010, a traffic accident occurred in which several students walking along Scott Creek were hit by a driver that lost control of his vehicle. The accident was apparently caused by a road rage incident when the driver tried to pass a slower moving vehicle. It did not qualify as a “preventable” accident that could have been avoided by the installation of a traffic signal. After the accident, the City received e-mails and phone calls from concerned neighbors requesting that a traffic signal be installed at Scott Creek Road and Zinfandel Street, and at Scott Creek Road and Riesling Street. The citizens also requested that the City implement speed control measures to reduce speeding along Scott Creek Road.

*Traffic Signal Request:* Residents around Scott Creek Road requested that traffic signals be constructed on Scott Creek Road because of the October 26 traffic accident. The residents also requested the signal because the high traffic volume along Scott Creek Road makes it difficult for residents to make left turns onto Scott Creek from Zinfandel Street or Riesling Street. The City evaluated the traffic signal warrants for the following intersections along Scott Creek Road: I-680 Southbound off-ramp; Zinfandel Street; Riesling Street and Yampa Road. The intersections of Scott Creek/Yampa Way and Scott Creek/Zinfandel did not meet any warrants; therefore, a signal should not be installed at these intersections. The intersections of Scott Creek/I-680 SB off-ramp and Scott Creek/Riesling did meet signal warrants but ranked as the two lowest intersections on the City’s signal priority list out of the 25 intersections on the list. Since 2008, only one right-angle/left turn accident has occurred at Scott Creek Road/I-680 SB off-ramp, and no right-angled/left turn accidents have occurred at Scott Creek/Riesling Street. Since the Scott Creek/I-680 SB off-ramp (No. 24) and Scott Creek/Riesling (No. 25) intersections ranked as the two lowest intersections on the signal priority list, staff does not recommend that these intersections be signalized at this time. Some residents contacted the City requesting that a signal be installed in order to reduce speeding on Scott Creek. The primary purpose of a traffic signal is to separate conflicting vehicular movements and conflicting pedestrian-vehicle movements and promote the orderly movement of vehicles and pedestrians at an intersection. A traffic signal is not a speed deterrent device. The residents cited the need for a traffic signal because of the October 26 accident; however, this accident did not impact the traffic warrant analysis since only accidents that are susceptible to correction by a traffic signal (right-angle and left-turn collisions) are included in the warrant analysis per the MUTCD.

*Speeding Concerns:* Due to the speeding concerns raised by the neighborhood following the accident, staff implemented some initial speed control measures. In November 2010, the Police Department deployed an unstaffed police vehicle along Scott Creek Road to deter speeders. In addition, the Police Department increased traffic patrol along Scott Creek Road and issued numerous warnings for speeding and issued several citations. In December 2010, three vehicle speed feedback signs were placed on Scott Creek at the following locations: westbound Scott Creek (east of Zinfandel), westbound Scott Creek (between Zinfandel and Riesling) and eastbound Scott Creek (east of Yampa). New speed limit signs were also placed at each location. The vehicle speed feedback signs display to the approaching driver the speed at which they are traveling. Speed limits are generally established at or near the 85<sup>th</sup> percentile speed, which is defined as the speed at or below which 85 percent of traffic is moving. As shown on the

85<sup>th</sup> percentile speed table below, the vehicle speed feedback signs have had little if any affect in reducing vehicle speed.

The following table summarizes the 85th percentile speed for Scott Creek as surveyed on different dates:

<b>Date</b>	<b>85<sup>th</sup> Percentile Speed</b>
May 2011	47
2008 Engineering & Traffic Survey for Speed Limits	45.7
2001 Engineering & Traffic Survey for Speed Limits	49
1995 Engineering & Traffic Survey for Speed Limits	48

The 85<sup>th</sup> percentile speed along Scott Creek has remained relatively consistent as noted in the table above. The current posted speed limit along Scott Creek is 40 MPH. The City conducted a Citywide Engineering and Traffic Survey in 2008, and Scott Creek had an 85<sup>th</sup> percentile speed of 45.7 MPH. Typically, the roadway would be posted for 45 MPH; however, the posted speed limit may be reduced by one 5 MPH increment if an engineering study indicates the need for a reduction in speed to match existing conditions. Based on the horizontal and vertical curves along the roadway, reducing the speed limit on Scott Creek to 40 MPH was justified. Although the current analysis shows the 85<sup>th</sup> percentile speed to be seven miles per hour above the posted speed limit, this level of speed is not unusual when compared to similar 40 MPH streets in Fremont.

Scott Creek Road between Warm Springs Boulevard and I-680 is approximately 84 feet wide with two vehicle lanes in each direction. The existing inside vehicle lane (next to the roadway centerline) width is approximately 12 feet, and the outside lane (next to the curb) width is approximately 18 feet. There are bike lanes and sidewalk along both sides of the street, and on-street parking is prohibited (see Enclosure E for details). The surrounding land use is primarily non-fronting residential neighborhood. Although the speeding issues on Scott Creek Road are not unusual for this type of roadway, there are changes that could be made to the road that would help reduce vehicle speeds. Reducing the vehicle lane widths will eliminate the open feel of the roadway, which in turn should reduce vehicle speed. Several options are presented below for Council consideration.

Staff has developed conceptual design options to address two of the main traffic concerns from the neighborhood: speeding and difficulty for residents to make left turns out of the side streets during peak traffic periods. The design options will eliminate or reduce the open feel of Scott Creek by reducing the lane widths to approximately 11 feet for each lane and by striping a median or constructing a raised median with curb and gutter. Two 11 foot travel lanes in each direction with bike lanes will be striped. Left turn pockets will remain along Scott Creek to all the side streets. To make left turns out from the minor street to Scott Creek easier, an auxiliary lane/acceleration lane will be provided in the median area (see Enclosure F for details). There is a similar type of auxiliary lane/acceleration lane on westbound Stevenson Boulevard at the driveway for the police department building/animal shelter. During peak travel times when crossing Scott Creek Road may be difficult, drivers making a left from the side street can cross half of Scott Creek Road when there is a gap in the traffic approaching from the left. Drivers

can then wait, if needed, in the auxiliary lane/acceleration lane before merging into the through lane to complete the left turn.

The traffic calming options are as follows:

1. Option A (Do Nothing) – Maintain the existing lane configuration along Scott Creek Road.
2. Option B (Striped Median) – Restripe Scott Creek Road with narrower lanes and a painted median between Warm Springs Boulevard and I-680. This option may not completely reduce the open feel of the roadway but will reduce the existing lane widths. The estimated cost for this option is \$72,000.
3. Option C (Raised Median Curb) – Similar to Option B above, but a raised concrete median curb and gutter will be installed in place of the striped median. Landscaping will not be included in the median. Only dirt backfill will be placed in the median. This option will significantly reduce the open feel of the roadway. The estimated cost for this option is \$576,000.
4. Option D (Raised Median Curb with Landscaping) – Similar to option C, with a raised concrete median curb and gutter but will include full median landscaping. This option will also significantly reduce the open feel of the roadway, and the trees in the median will add a vertical element to the roadway. The estimated cost for this option is \$1.3 million.

New traffic signals and many other traffic improvements are funded from the City's Traffic Improvement Program fund (PWC 7953), which is funded with Traffic Impact Fees (TIF). However, traffic calming projects, such as the options presented for Scott Creek Road, are not eligible to use TIF funding. Therefore, if the Council's direction is for staff to pursue one of the traffic calming options for Scott Creek Road, staff will return to Council with possible funding options. At this time, it is likely that funding would have to come from the City's gas tax revenue. Gas tax funds are now used almost exclusively for the maintenance and operation of the City's street and traffic signal system. Therefore, adding a traffic calming project would likely reduce the level of street maintenance the City would be able to complete.

With regard to the traffic improvement projects that can be funded from the Traffic Improvement Program account, staff's recommended traffic improvement project allocations are presented below.

**Allocation of Funds:** Staff is recommending that \$1,205,000 of the overall \$1,390,000 be allocated for the following projects:

1. ***Intersection Improvements at Blacow Road/Fremont Boulevard, Blacow Road/Omar Street-Robin Street, Blacow Road/Boone Drive, Fremont Boulevard/Enea Court and Fremont Boulevard/Paseo Padre Parkway:*** Staff recommends the allocation of \$875,000 for intersection improvements at Blacow/Fremont, Blacow/Omar-Robin and Blacow/Boone and \$300,000 for the intersection improvements at Fremont/Enea. The traffic signal equipment at these four intersections is outdated and needs to be upgraded with signal equipment that meets current State and City standards and is more energy efficient. The outdated signal system is prone to frequent signal malfunction, which typically leads to traffic delays and higher maintenance cost. All existing signal poles, vehicle and pedestrian signal heads, pedestrian push buttons and all conduits and wiring will be replaced at all three intersections. In order to reduce signal pole knockdowns, signal poles (for left turn traffic) mounted in the medians will be removed and

replaced with new signal poles behind the face of curb with longer mastarms. To increase the visibility of the signal heads, all existing 8-inch signal heads will be replaced with new 12-inch signal heads. The project will include installing Americans with Disabilities Act (ADA) compliant curb ramps, installing countdown pedestrian indications, and installing updated Assessable Pedestrian Systems (APS) push buttons for vision impaired pedestrians.

The project will also install a CCTV camera at Blacow/Fremont and Fremont/Paseo Padre. The installation of CCTV cameras will allow the broadcast of live video images from the intersections back to the City's Traffic Management Center (TMC) in the Development Center building. At the TMC, staff will be able to monitor traffic flow on Stevenson Boulevard and along each cross street from the cameras. The installation of the cameras will provide staff with the tools necessary to be more proactive in identifying and verifying any traffic issues from the TMC and mitigating them in a timely manner by remotely adjusting the traffic signal cycle length and coordination in order to minimize adverse impact to the traveling public.

2. ***Signal Priority List and Traffic Improvement Program Preparation:*** Staff recommends the allocation of \$30,000 for staff time to prepare the next signal priority list and traffic improvement program for FY 2012/13. Preparation of the signal priority list involves gathering vehicle approach counts for each intersection over a 24 hour period, analyzing traffic volume and accident data, signal warrant preparation and evaluation, signal priority list evaluation, field observations and preparing reports and exhibits.

If the Council allocates funding consistent with the staff recommendation, after receiving bids for each of the intersection improvement projects, staff will return to Council for approval of plans and specifications and award of the contracts.

**FISCAL IMPACT:** Each Capital Improvement Program (CIP) includes funding from Traffic Impact Fees (TIF) for traffic improvement projects. These funds are held in PWC 7953 (Traffic Improvement Program) until the City Council approves the appropriation of funds to new transportation improvement projects. There is currently \$840,000 in this account (\$290,000 from FY 2009/10 and \$550,000 from FY 2010/11) that has not been appropriated to projects at this time. In addition, the recently adopted FY 2011/12 to FY 2015/16 CIP includes the appropriation of an additional \$550,000 to PWC 7953 for FY 2011/12. The appropriation will occur on July 1, 2011. Therefore, the total balance in PWC 7953 will be \$1,390,000 on July 1, 2011, and with the proposed allocation of \$1,205,000 for the new projects listed above, the remaining balance in PWC 7953 will be \$185,000. The remaining balance will be used to fund future transportation improvement projects. Staff will request Council approval to allocate these funds to another project either as part of the next CIP or possibly sooner if a new priority project emerges.

**ENVIRONMENTAL REVIEW:** Staff will conduct appropriate environmental review for each project as design is completed and prior to the award of a construction contract.

**ENCLOSURES:**

- [Enclosure A – FY 2010/11 Signal Priority List \(Warrants Met\)](#)
- [Enclosure B – FY 2010/11 Signal Priority List \(No Warrants Met\)](#)
- [Enclosure C – Auto Mall Parkway at Southlake Common](#)
- [Enclosure D – Blacow Road at Gatewood Street](#)
- [Enclosure E – Scott Creek Road \(Existing Conditions\)](#)
- [Enclosure F – Scott Creek Road \(Conceptual\)](#)

**RECOMMENDATION:**

1. Approve the FY 2010/11 Signal Priority List
2. Consider traffic calming options for Scott Creek Road and provide direction to staff.
3. Appropriate \$1,205,000 (\$840,000 from FY 2009/10 and FY 2010/11 and \$365,000 from FY 2011/12) from PWC 7953 account to the following projects:
  - a. \$875,000 of TIF funds to 531 PWC 8759 for Intersection Improvements at Blacow/Fremont, Blacow/Omar-Robin and Blacow/Boone.
  - b. \$300,000 of TIF funds to 531 PWC 8760 for Intersection Improvements at Fremont/Enea & Fremont/Paseo Padre.
  - c. \$30,000 of TIF funds to 531 PWC 8458 for the FY 2012/13 signal priority list and traffic improvement program preparation.

**8.1 Council Referrals – None.**

**8.2 Oral Reports on Meetings and Events**





## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA.....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD .....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA .....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD .....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT .....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW .....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS .....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO.....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<b><i>Date</i></b>	<b><i>Time</i></b>	<b><i>Meeting Type</i></b>	<b><i>Location</i></b>	<b><i>Cable Channel 27</i></b>
July 5, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 12, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 19, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
July 26, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
		August Recess		
September 6, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 13, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
September 20, 2011	TBD	Work Session	Council Chambers	Live
September 27, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 3, 2011	4-6 p.m.	Joint Council/FUSD Meeting	Council Chambers	Live
October 4, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 11, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
October 18, 2011	TBD	Work Session	Council Chambers	Live
October 25, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 1, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 8, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live
November 15, 2011	TBD	Work Session	Council Chambers	Live
November 22, 2011	7:00 p.m.	City Council Meeting	Council Chambers	Live